रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-सा.-28102024-258281
CG-DL-W-28102024-258281

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 41] नई दिल्ली, अक्तूबर 13—अक्तूबर 19, 2024, शनिवार/आश्विन 21—आश्विन 27, 1946
No. 41] NEW DELHI, OCTOBER 13— OCTOBER 19, 2024, SATURDAY/ASVINA 21– ASVINA 27, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मन्त्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 9 अक्तूबर, 2024

का.आ. 1926.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्द्वारा, केंद्र सरकार, अक्टूबर 09, 2024 से कांसुलर सेवाएं के निर्वहन करने के लिए विदेश में भारतीय मिशनों/पोस्टों में सहायक कांसुलर अधिकारियों के रूप में इस मंत्रालय के नीचे उल्लिखित अधिकारियों की नियुक्ति करता है:

क्रम सं.	अधिकारी का नाम और पद	मिशन/पोस्ट जिसमें सहायक कांसुलर अधिकारी के रूप में नियुक्त किया गया है
1	श्री कंवलजीत सिंह, सहायक अनुभाग अधिकारी	भारत के प्रधान कोंसलावास, वैंकूवर
2	श्री श्रीनिवास मामचंद, सहायक अनुभाग अधिकारी	भारतीय दूतावास, कुवैत

[फा. सं. टी. 4330/01/2024(32)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 9th October, 2024

S.O. 1926.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints the below mentioned officials of this Ministry, as Assistant Consular Officers in Indian Missions/Posts abroad to perform Consular services with effect from October 9, 2024:

Sl. No.	Name & Rank of the Officer	Mission/Post wherein appointed as Assistant Consular Officer
1	Mr. Kanwaljit Singh, Assistant Section Officer	Consulate General of India, Vancouver
2	Mr. Shriniwas Mamchand, Assistant Section Officer	Embassy of India, Kuwait

[F. No. T. 4330/01/2024(32)]

S.R.H FAHMI, Director (CPV-I)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 12 जून, 2024

का.आ. 1927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फैमिली पालनिंग एसोसिएशन ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण–सह – श्रम न्यायालय**, हैदराबाद के पंचाट (पहचान **संख्या 29/2010)** को प्रकाि ित करती है, जो केन्द्रीय सरकार को **11/06/2024** को प्राप्त हुआ था।

[सं. एल–22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th June, 2024

S.O. 1927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 29/2010***)* of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Family Palanning Association of India** and their workmen, received by the Central Government on **11/06/2024**.

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 27th day of March, 2024

INDUSTRIAL DISPUTE L.C.No. 29/2010

Between:

1. I.K. Swamy Das,
   S/o Krupanandam
   (Original Petitioner – died) … Original Petitioner (died)
2. Smt. J.R. Janakamma,
   W/o Late I.K. Swamy Das,

Plot No.83, H.No.1-5-941/2/2,
Bhoopathi Rao Nagar, Old Alwal,
Hyderabad – 500 010.

3. Indrapally Swarna Kumari,
D/o Late I.K. Swamy Das,
Plot No.83, H.No.1-5-941/2/2,
Bhoopathi Rao Nagar, Old Alwal,
Hyderabad – 500 010. ..… .Petitioners(L/Rs)

AND

1. President,
Family Planning Association of India,
Hyderabad Branch, No 6-3-883/ F 1,
Panjagutta Officers Colony,
Adjacent Topaz Building, Panjagutta,
Hyderabad - 500 082.

2. All India President.
Family Planning Association of India Headquarters,
Bajaj Bhavan, Nariman Point, Mumbai

3. Principal Secretary,
The State of Andhra Pradesh
Medical, Health & Family Welfare Department,
Secretariat, Hyderabad. ….Respondents

Appearances:

For the Petitioner : M/s. Abhinand Kumar Shavili & P.S. Rajasekhar, Advocates

For the Respondent: M/s. Damodar Mundra, Dinesh K Gilda, G Venkatesh, Shreyamundra, Divya Mundra, Advocates

AWARD

Sri I.K. Swamy Das who worked as Cook (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking for declaring the proceeding dated 17.11.2009 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit. During pendency of the dispute, Petitioner workman expired and his LRs, wife and daughter i.e., Smt. J.R. Janakamma and Smt. Indrapally Swarna Kumari are brought on record.

2. **The averments made in the petition in brief are as follows**:

The Petitioner submits that he had studied up to X Class. Owing to the financial and domestic difficulties he could not pursue his further studies. The Petitioner further submitted that right from his child hood, he had keen interest and inclination towards cooking and he had learnt the art of cooking. The Petitioner further submitted that he became a cook by profession. While matter stood thus, the first Respondent had issued a recruitment notification for the post of Assistant Cook in the daily news. The Petitioner had responded to the said notification and not having been successful in the selection process he was appointed as such on contract basis vide Proceedings dated 17.4.2003. Petitioner further submits that though the recruitment procedure for a regular selection to the post of Assistant Cook was held, for the reasons best known to the authorities they have appointed the Petitioner initially for a period of six months and thereafter it has been extended from time to time. Further it is submitted that various conditions were set out in the appointment letter and the Petitioner had been discharging his duties to the best satisfaction of his superiors and everyone concerned and the Petitioner has never given any chance to anybody to complain against him. It is submitted that the post held by the Petitioner was admitted in to grant-in-aid by the 3rd Respondent. The Petitioner's

salaries were paid by the 3rd Respondent. It is submitted that the 1st Respondent is fully controlled by the Government of India and State Government and hence in respect of certain posts salaries are paid by the State Government. It is submitted that Respondents No 1 and 2 are functioning directly under the control of International Parent which is an international society. The International Family Planning Operation and intends to solve the problems. It is submitted that the world wide problems are carried out across the globe. That the international Family Planning Parent Federation have identified the Family Planning Training Centers certain posts salaries are paid by the State Government and internationally controlling the population control through local bodies of the association. The local bodies are formed and registered as Societies and the local bodies are under the control of International Planning and Parent Federation. The Petitioner further submitted that the Respondents No 1 and 2 are one such local body which has been constituted under International Planning and Parent Federation and Respondents No 1 and 2 are registered societies under the Societies Registration Act 1860 bearing Registration No 3108. It is submitted that the Respondents No 1 and 2 undertakes various welfare measures and projects of functional implementation of the welfare programmes. Some of the projects are fully aided by the Union of India and the 3rd Respondent. The Petitioner further submits that one such project is Multi Purpose Project at Panjagutta. The Petitioner is discharging duties as Assistant Cook in the Multipurpose Family Welfare Training Centre run by Respondents No 1 and 2 which was admitted into Grant-in-aid by the 3rd Respondent. It is further submitted that while he was working as Assistant Cook few series of allegations were levelled against him by the staff working in Multipurpose Family Welfare Training Centre, Panjagutta. The Respondents No 1 and 2 having entertaining such complaints, have awarded discharge from service vide Proceedings dated 17.11.2009 without conducting proper enquiry. When any allegations of serious in nature are levelled, the Respondents must give an opportunity to defend those allegations. The discharge order is stigmatic and the Petitioner never indulged in any of the allegations the levelled against him. Only to defame the Petitioner some of employees have made a false complaint with the Respondents No. 1 and 2 having levelled serious allegations without there being any proof. Respondents are bound to conduct an inquiry and issue award after considering natural justice. In absence of the same the Respondents are going unilaterally discharged the Petitioner from service though the Petitioner rendered more than six years of service without any complaint. It is further submitted that while he was discharging his services, it has been alleged that as per Sub Clause 5 of appointment orders, his services have been discharged. It is submitted that Sub Clause 5 of his appointment order is not related while discharging his services. A perusal of Clause 5 of the appointment order would indicate that the Respondents No 1 and 2 can terminate his services if the project work is completed earlier due to modified project work for whatsoever reason necessitated the restructure of the project if the appointing authority feels services of the Petitioner are liable to be terminated on month's notice or in lieu of notice by paying one month's notice. Admittedly the action of the Respondents from discharging the Petitioner from service is arbitrary, illegal. The project of Multipurpose Health Training Centre is still continuing. Respondents should have continued the Petitioner as Assistant Cook. It is further submitted that the Petitioner and his family depended upon the meager salary drawn by him as an Assistant Cook. It is further submitted that the Respondents No 1 and 2 had issued an advertisement on 02.02.2010 in the daily news paper 'Deccan Chronicle Hyderabad Edition" for filling up the post of Assistant Cook in Multipurpose Health Workers Training Centre. If the Respondents No l and 2 fill up the post of Assistant Cook by way of recruiting another person, the Petitioner will be put to irreparable loss and hardship. The balance of convenience lies in favour of the Petitioner as he has rendered more than six years of service and Respondents have discharged him from service. The Petitioner further submits that constrained by the inaction of the Respondents, the Petitioner got issued legal notice and the Respondents having received the same have not taken any action to reinstate the Petitioner into service. This action of the Respondents is illegal, arbitrary and violative of Art 14 and 16 of the Constitution of India. It is further submitted that he has no other alternative, effective or efficacious remedy except to approach this Hon'ble Tribunal for redressal. It is therefore prayed to set aside the impugned discharge order awarded vide Proceedings No. FEA/H/2009/282 dated 17.11.2009 of the 1st Respondent by holding it as illegal, arbitrary and violative of Industrial Disputes Act, 1947 and direct the Respondents to reinstate the Petitioner into service as Assistant Cook with continuity of service and pay full back wages and other of the above I.D.

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows**:

It is submitted that, the application of the applicant for reinstatement of service and payment of full back wages is not maintainable against Respondents since they are not a Government or Semi-Government authority as claimed under Article 12 of the constitution of India. It is to bring to the notice that this Hon'ble Court that this answering association is a registered society under Societies Registration Act 1860 bearing No.3108 of 1954/55 and the Headquarters of these Association is at Mumbai. Its aims and objectives are as follows:-

i. To disseminate knowledge and education about, and to promote the adoption of the practice of family planning for the advancement or basic human rights, family and Community welfare, the achievement of a balance between population, resources and environment and the attainment of a higher standard and quality of life.

ii. To assist wherever possible in the national programme of Family Planning by undertaking to carry out various activities of a complementary, supplementary innovative nature.

iii. To undertake or promote studies and activities in regard to services, training, information, education and research programmes.

iv. To organize local conferences, seminars, training courses and other meetings and events in the furtherance of the Aims and objects of the Association

v. To foster and develop contracts with its State Government and other organizations engaged in similar types of work in its area.

vi. To take any or all appropriate measures to further the Aims and Objects.

The Respondents further submits that the Respondents association gets their funds from International Planned Parenthood Federation (I.P.P.F), which is an International agency. The developed countries of the world contribute to I.P.P.F and the said funds in turn are in its 150 affiliated countries under the respective objectives and aims spend for promotion and propagation on wide spectrum of services encompassing maternal health, child health, child survival, adolescent, HIV/AIDS, safe abortion, focusing mainly on reproduce sexual health, family planning and population. Out of such 150 affiliated countries one of the beneficiaries of the said funds is Respondent association. It is further submitted that the Central Government or State Government has absolutely no control over the affairs of the association nor they are competent to interfere with the internal administration of the association. Hence the Government does not ha Petitioner have any control over the association; as such the petition filed by the Petitioner is bad in law and is liable to be dismissed on the ground of maintainability under the provisions as claimed. The contentions and allegations under the petition filed by the Petitioner are all false and is a concocted story to gain sympathy from this Hon'ble Court for reinstatement which is not possible for a character with that of the Petitioner who has indulged himself in many mischievous activities which amounts to grave criminal offences. But considering his age factor and health, Respondent Association has not taken serious steps against the Petitioner for booking him in various complaints for his misconduct and misbehavior with the co-staff and more particularly female trainee students at the institute. It is further submitted that the contentions of the Petitioner are not known to Respondent and the Petitioner is put to strict proof of the same. The contention with regard to his appointment on 17.4.2003 is true and correct, but the same is for a limited period of 6 months. Since the appointment of the Petitioner was temporary and was on year to year basis only, the same was agreed under the appointment letter-cum-contract signed by the Petitioner. It was specifically agreed by the Petitioner that the salary of the Petitioner would be paid as and when the Government releases the annual maintenance grants in installments. It was also agreed that since the Project is 'being funded by the Government and as soon as the Project is terminated and aids are stopped, his services in the organization would automatically terminate. It was further agreed under the said employment contract that, any misbehavior by the employee and in particularly the Petitioner it would be taken seriously and his service would terminate without any prior notice. The Petitioner was misbehaving from the date of his appointment, as an Assistant Cook for the Project being taken up by the Respondent No. 1 Organisation with the lady staff and lady trainee students in the Multi Purpose Family Welfare (MPFW) Training Centre at Shameerpet. This Respondent submits that there were regular complaints from the Staff and enquiries were also held against the Petitioner who had been given warnings on many occasions which are evident from various correspondences. Recently in the month of March, 2009 when a serious complaint was received from the Warden, Branch Manager and Principal along with other students, the Petitioner was called upon for clarification and explanation. The Petitioner has tendered unconditional apology admitting the wrong doings and also stated that he will not commit such acts in future. The said letter was executed by the Petitioner on dated 23.3.09. But however, subsequently he did not stop his mischievous and malafide activities resulting in regular complaints from the trainee female students. The complaints of the students were in such grave nature that definite criminal cases could have been booked against the Petitioner for outraging the modesty of womenfolk i.e., staff and trainee students, as such, Respondent association constrained to issue notice calling upon him for explanation and show cause notice was also issued. It is pertinent to note here that the reputation and goodwill of the Respondent association was at stake and they could not stand as mute spectators for the misbehaviour of the Petitioner. The said aspect has been suppressed by the Petitioner in his petition and he has also tendered explanation denying all such acts but upon due enquiry the mischievous acts of the Petitioner were confirmed, as such, a discharge notice terminating his services was issued by this answering Respondent on dated 17.11.09 with one month salary. The Respondent submits that upon receipt of the said letter, the Petitioner got issued a notice for reinstatement through his counsel which was duly replied by this Respondent association adverting all the contentions and allegations and also it was specifically mentioned that the Respondent no.1 association was kind enough in not taking any serious action against the Petitioner for his grave offences committed during his tenure with the Respondent no.1 association. However, there is no rejoinder to the said reply but the Petitioner with ulterior motive has filed the present application under the provisions of Industrial Disputes Act for reinstatement and continuity of service and full pay back of wages which is nothing but a malicious litigation.

4. On the basis of the pleadings of both parties and arguments advanced, the following points emerge for determination in the present matter:-

I. Whether the action of the Management in terminating the services of the Petitioner, Sri I. Swamy Das posted as Assistant Cook with the first Respondent vide order dated 17.11.2009 is legal and justified?

II. To what relief is the Petitioner entitled for?

5. During the hearing, Petitioner in his oral evidence has testified himself as WW1 and also exhibited documents i.e., Ex.W1 is the appointment letter dated 17.4.2003, Ex.W2 is the photocopy of cheque, Ex.W3 is discharge letter.

6. On the other hand, on behalf of the Respondent witness MW1 and MW2 have been examined and in the documentary evidence Ex.M1 is the complaint given by the Branch Manager of FPAI, Hyderabad branch against Sri I.K. Swamy Das, again Ex.M2 is written complaint to the Warden about the conduct of Sri I.K. Swamy Das, Ex.M3 is the memo dated 4.3.2009 addressed to Sri I.K. Swamy Das, Asst. Cook. MPHW (F) Training Centre by Branch Manager, Ex.M4 dated 23.3.2009 is reply submitted by Petitioner Sri I.K. Swamy Das, Asst. cook to the Branch Manager wherein an appeal made for pardon in reference to the memo dated 4.3.2009, Ex.M5 is the copy of enquiry proceeding done against the Petitioner by the Respondent No.1 and Ex.M6 is a proceeding filed by the Respondent authority.

7. Heard argument of Learned Counsels for both the parties. Petitioner has also submitted written submissions.

8. Perused the record.

Findings:-

9. **Point No.I**:-At the outset of the matter Petitioner has submitted that he is the workman as defined u/s 2(s) of the I.D. Act, 1947 and his termination amounts to retrenchment as defined u/s 2(oo) of the I.D. Act, 1947.

The definition of 'Retrenchment' as given under I.D. Act, 1947 is extracted as below:

"Sec.2 [(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

(c) termination of the service of a workman on the ground of continued ill-health;]"

From definition of the 'Retrenchment' as given under Sec.2(oo) of I.D. Act, 1947 it is clear that the termination by the employer, of the service of the workman for any reason whatsoever otherwise, by way of disciplinary action, is not covered under the definition of 'Retrenchment' under the Act. Here, in the present matter, the termination of the service of the Petitioner workman has been imposed as a punishment inflicted by way of disciplinary action for his misconduct. Therefore, the provision of section 25-F of the I.D. Act, 1947 does not apply to the case of the Petitioner herein.

10. Further, Learned Counsel for the Petitioner contended that Petitioner was appointed as an Asst. Cook in the Respondent organization vide appointment letter dated 17.4.2003 and he was initially appointed for six months, but worked in the Respondent organization for more than 6 ½ years continuously. While so the Petitioner's services were terminated we.f. 17.11.2009 without any enquiry whatsoever on the alleged misconduct committed by him. Ex.W3 is the termination order dated 17.11.2009 that reveals, it was alleged that Petitioner was misbehaving with the female staff on 7.8.2003, 30.1.2004 and 4.3.2009 and on 17.9.2009 and also with the staff and students. However, in respect of the serious nature of allegations made by the staff spreading over years no charge sheet was issued and no domestic enquiry was conducted by the Respondent and all of a sudden his services were terminated w.e.f. 17.11.2009. Further, Petitioner submitted that entire allegations are false and incorrect as the alleged misconduct was noticed on 7.8.2003 and no corrective steps were taken in conducting the enquiry and imposing the punishment and when the misconduct was committed by the Petitioner, therefore, show s that story of misconduct build up to justify the action against the Petitioner. Hence, the alleged misconduct is a concocted story to terminate the services of the Petitioner. further it is submitted that Respondent did not let in any evidence on behalf of the Respondent more so of the persons who complained about the Petitioner, about his misconduct against them, so that same can be disputed in the cross examination. Further it is submitted that principles of natural justice was not followed in conducting the enquiry against the Petitioner and since the termination order is punitive as well as stigmatic, therefore void ab-initio.

11. To fortify his submission, Petitioner has examined himself as WW1 wherein he reiterated the averments of the claim petition and has also marked documents Ex.W1 to W3. But, rest of the documents have not been exhibited by the WW1. Further, WW1, I.K. Swamy Das was cross examined by the Respondent counsel. In his cross examination WW1, states:-

"It is true that I was appointed as a Temporary Assistant Cook with the Respondent No.1. It is true that while appointing me and in the appointment letter itself it was disclosed to me that this post was on the Government aid grant and that immediately after the grant is stopped I will not be having any continuation of the job. I used to cook food in the ladies hotel and training centre. It is true that my co-employees who were women and also the students of the ladies training centre made complaints against me to the effect that I used foul language against them and also that I attended the duty while in drunken state.(the witness adds), These are all false complaints made since I did not allow my co-employees to take the food prior to the hostel mates take the same. The hostelmates made the complaint as they were asked to do so by the employees. It is not true to suggest that my contentions with this regard are incorrect. It is true that an enquiry has been conducted on the said complaints by the Respondent Management prior to my being removed from service. (the witness adds), I accepted my guilt at that time since, all the members of the Management, employees and the hostelmates were women and I alone was the male person and all those persons were against me because I was not allowing the employees to eat the food meant for the inmates of the hostel. It is true that Ex.M1 is the complaint dated 4.3.2009 given by one Lalitha, Madhavi and Renuka who were assistant cooks. Ex.M2 is the complaint dated 4.3.2009 given by the Warden. I received the original of ex.M3 letter under which I was warned against such conduct. It is true that thereafter enquiry was conducted and at that time I gave Ex.M4, the apology letter. (the witness adds), I gave it as I was asked to give. Ex.W1 to W7 are the copies of the complaints filed by me along with my petition. It is not true to suggest that even after giving the Apology letter, I continued to behave in the same manner without mending my ways and that in the circumstances an enquiry was conducted on a complaint and thereafter I was removed from service."

Thus, from the above statement of the witness WW1 it is established that complaints of misbehavior and misconduct were made by female staff and students against the Petitioner and all the complaints have been moved in written form against Petitioner to the Management and Management had issued a memo of warning to Petitioner asking him to reform his conduct. Further, it is also proved that an enquiry was conducted against Petitioner and Petitioner in his own apology letter, Ex.M4 has admitted his misconduct alleged in the complaint of female employees and students against him. Further, the Petitioner has submitted that the enquiry in reference to the allegations made against him by female staff was conducted but he was not afforded fair opportunity of hearing during the enquiry. Therefore, the termination o0rder passed on the basis of the enquiry report is void-ab-initio. But, the record of the enquiry as well as evidence of the Respondent goes to reveal that before initiation of enquiry proceeding against Petitioner, Respondent got issued notice but deliberately Petitioner avoided the service of notice and despite the notice of the enquiry, he did not avail opportunity of hearing before enquiry. Hence, the contention of the Petitioner in this context is untenable.

12. On the other hand, the Respondent Management has submitted that there were regular complaints against the Petitioner and initially he was given warnings on many occasions. In the month of March, 2009, when a serious complaint was received from Warden, Branch Manager along with other students an initial enquiry was conducted and the Petitioner was called for a clarification and explanation wherein the Petitioner tendered apology letter and also stated that he will not commit such Act in future and the said letter was executed by the Petitioner on 4.3.2009. Further, Respondent submitted that in spite of such incident, the Petitioner did not stop his mischievous activities resulting in regular complaints from trainees, female students, co-employees and in such a grave nature of misconduct definite criminal cases could have been booked against the Petitioner for outraging the modesty of womenfolk i.e., staff and trainee students. But the Respondent was constrained to issue show cause notice calling upon his explanation. Further, Respondent submitted that after due enquiry and also after calling upon the Petitioner's explanation by issuing show cause notice to the Petitioner which was returned unserved on two occasions, the notice was affixed on the notice board of the association fixing the date of enquiry. Since the Petitioner did not turn up for enquiry, hence, the Association was constrained to pass appropriate order terminating the services of the Petitioner after conducting the enquiry and issued discharge notice, with one month salary. After receiving the termination order, the Petitioner sent a notice to Respondent for reinstatement through his counsel which was duly replied and adverting all the contentions and allegations of the Petitioner. Respondent Management has examined witness MW1 who has proved the contention made in the counter. MW1 was cross examined at length by the Petitioner counsel, but nothing could be elicited from the statement of the witness to discredit or contradict the testimony of the MW1. The witness MW1 stands firm in his cross examination and states that before termination of the workman Respondent organization had given the opportunity to the workman to submit explanation as to why he could not be terminated. Witness MW1 states that before commencement of the enquiry a notice has been issued by the Enquiry Officer to put forth the case of the workman along with defence before the enquiry. Ex.M1 to M2 are complaints and Ex.M3 is the memo issued to the Petitioner by the Respondent. EX.M4 is letter written by the Petitioner to the Branch Manager for apology / pardon for his misconduct with the lady staff and students in the Association.Ex.M4 would reveal that the Petitioner has apologized for his misbehavior and also assured not to repeat such conduct in future. However, Ex.M4 has been admitted by WW1 in his cross examination statement. Ex.M5 and Ex.M6 are the documents pertaining to enquiry proceeding conducted by Respondent Management against the Petitioner. The witness MW1 further states that notice was issued to the Petitioner workman calling upon his explanation but that notice was returned unserved on two occasions. Therefore, the said notice was affixed on notice board of the Association. Thus, I find no reason to disbelieve the testimony of MW1 pertaining to service of notice to

the Petitioner. Hereby, it is clear that Petitioner was afforded hearing opportunity to appear and produce his defence before enquiry, but he did not avail of it for the reasons best known to him.

13. However, WW1 has admitted in his cross examination that while he was in service he has residing at D.No.8-3, Laxminagar, which is nearby to his present address, D.No.8-4-549/155, Erragadda. Thus, due to change of address by the Petitioner the enquiry notice returned unserved. But it is not the case of Petitioner that he ever informed to the Respondent Management about the change of his residential address after leaving old residence as recorded in his service record of Company. As the Petitioner himself failed to communicate his change of address to the Respondent hence, for non-service of notice he can not blame Respondent. Hence, there was no fault on the part of the Respondent Management for non-service of notice. Even after return of unserved notice, Respondent Management made an effort to communicate the same to the Petitioner by affixing the notice of enquiry on the notice Board of the Association and that come into the knowledge of the Petitioner, but despite its notice he at his own risk, did not avail the opportunity to appear before the enquiry and to produce his defence, against the allegation of complainants.

14. Moreover, the terms and conditions of the service of the Petitioner have been enumerated in his appointment letter Ex.W1 and same has been accepted and agreed upon by the Petitioner at the time of his appointment in the Respondent employment. Therefore, the terms and service conditions of the Petitioner has to be governed and regulated according to the terms and conditions as mentioned in his appointment letter dated 17.4.2003, Ex.W1. The terms and conditions as mentioned in the appointment letter of Petitioner I.K. Swamy Das, i.e., Ex.W1 are being extracted as below:-

"Your appointment will be subject to following terms and conditions:

1. The contract will be for a period of six months.

2. You will be paid a salary of Rs. 3521 (Rupees Three thousand five hundred twenty one only) per month including other allowances as admissible in the pay scale of 2550-50-2750-60-3050-80-3450-100-3950-120-4550.

3. You will be paid the above salary as and when the Government releases the Annual Maintenance Grant in installments.

4. You will be allowed one-day leave for every one month of completed service, besides Sundays and Public Holidays at the discretion of the Management.

5. In case, it is decided to terminate the Project work earlier or to modify the project work for whatsoever reasons, necessitating restructuring the project, your services are liable to be terminated on one month's notice or pay in lieu of notice.

6. Before the completion of contract period, either party shall have the right to terminate the contract by giving 15 days notice or 15 days payment in lieu thereof, without assigning any reason.

7. You will not be entitled to any rights or privileges other than those mentioned in your appointment letter.

8. You will have to abide by such rules as are made applicable to you from time to time.

9. This post is under the scheme wholly funded and sanctioned by the Govt. of India on year to year basis. This scheme is administered by FPAI at its sole discretion and subject to willingness to run for each financial year.

10. As a full time employee under the said project, you will not be allowed to undertake any part time work of any nature whatsoever.

11. You shall discharge your duties to the entire satisfaction of the superiors and with due regard to the objectives of the Project. Your commitment to the progress and punctuality will be of prime importance in appraisal of project performance.

12. You will be required to produce the following documents:

i) Certificate of age

ii) Certificate of Medical Fitness from a licensed Medical Practitioner."

The condition No.11 of the appointment order goes to reveal that Petitioner shall discharge his duties to the entire satisfaction of the superiors and with due regard of the project and his commitment to the progress and punctuality will be of prime importance in appraisal of the project performance. However, condition No. '6' of Ex.W1 speaks that before the completion of the contract period either party shall have the right to terminate the contract by giving 15 days notice or 15 days payment in lieu thereof, without assigning any reason. Here in the present matter, the Petitioner has been found guilty of misconduct of the moral turpitude of misbehaving and harassing the female co-staff and students, and the alleged misconduct has been proved in the enquiry conducted against the Petitioner. Thus, the Petitioner has been found guilty of committing misconduct of moral turpitude and he failed to discharge his duties to the entire satisfaction of his superiors as per service condition No.11 of the appointment letter, Ex.W1.

Moreover, as per condition No.6, Respondent had issued the discharge letter, Ex.W3 of the Petitioner from service. Therefore, as the terms and service conditions enumerated in Ex.W1, at Points No.6 and 11, Respondent management had a right to terminate the contract by giving a 15 days notice or 15 days payment in lieu thereof without assigning any reason. Here in this present matter, Respondent has mentioned sufficient reasons in Ex.W3 for discharging the Petitioner from the service, as extracted below:-

"1. On 7.8.03 a written complaint was received from the warden for harassing the students and using foul language.

2. On 30th Jan 2004 complaint was received from the female staff of the training centre for using abusive language. Subsequently a memo was issued to you on 31.1.04 warning you to mend your behaviour.

3. Again on 4.3.09 written complaint was received from the female staff of training centre for your misbehavior. A memo was again issued to you on March 4, 2009 giving final warning to mend your behaviour. Following this you have submitted a written apology letter dated March 23, 2009 assuring the Branch Manager that it will not be repeated again.

4. Inspite of your assurance that you will not repeat such acts in future, you have continued to misbehave with the female staff and students.

Under the above circumstances the Management cannot repose confidence in you and as such decided to discharge you from service as per clause No.5 of your appointment letter dated 17.4.03. You are hereby discharged from service with effect from October 1, 2009 and you are hereby paid Rs.9,596/- towards one month pay in lieu of one month notice (vide cheque No.86420 dt. 16/11/2009 for Rs.9,596/-)"

Thus, from the content of the discharge order of the Petitioner Ex.W3, it is deducible that Respondent has disclosed sufficient ground there to discharge the Petitioner from service although he was not bound to disclose ground as per terms of the appointment letter, Ex.W1. As regards the contention of the Petitioner that Clause No.5 of the appointment letter does not apply to his case of discharge as mentioned in Ex.W3. But the Respondent has mentioned sufficient contents of complaint received against Petitioner from Warden for harassing the students and using foul and abusive language to the staff and students and has categorically mentioned that Management cannot repose confidence in him, hence, decided to discharge the Petitioner from service. Therefore, merely mentioning wrong Clause number in Ex.W3 does not make discharge order as illegal. The argument of Petitioner is untenable at threshold.

15. As regards the question of disproportionality of punishment of discharge from service of the Petitioner, in this context I would like to make a reference of the relevant decisions of the Hon'ble Apex Court and Hon'ble High Court as mentioned below:-

a) In **Komal Singh Son of Sri Man Singh vs. General Manager (P), (2007) 2LLJ 431 ALL**

"28. In P.M. Belliappa (supra) the Division Bench of the Madras High Court examined what moral turpitude is and in this context observed:

There is a reference to the petitioner's conduct amounting to moral turpitude. We have to point out that the expressions "moral turpitude or delinquency" are not to receive a narrow construction and it would include conduct contrary to and opposed to good morals and which is unethical. The said expressions have not found a categoric definition anywhere, but we can safely take it that it would include anything done contrary to justice, honesty, modesty or good morals and contrary to what a man owes to a fellow man or to society in general. It would imply depravity and wickedness of character or disposition of the person charged with the particular conduct. It may also include an act which shocks the moral conscience of society in general. It is by now well settled that the misconduct or unbecoming conduct or conduct of moral turpitude need not necessarily relate to an activity in the course of the employment and it could relate to an activity outside the scope of the employment. Considering the high nature of the office, the incumbent is placed in and the reputation of integrity that is required for the discharge of the duties annexed to that office, if the act of the Government servant brings down the reputation of not only himself but also the office which he occupies, the employer, the Government, can definitely set the rule in motion for disciplinary action. If the Government servant is found indulging in a conduct which is unworthy or unbecoming of an official of the State, definitely, we cannot put a fetter on the discretion of the State with regard to the action to be taken by it in this context. The State, keeping its administration well pruned, cannot be told by the Court as to what type of officers it should entertain and what type of conduct it should tolerate and ignore. The discretion is that of the State in these matters and unless the discretion exercise and the decision taken could come within the mischief of any of the well settled principles, this Court should not superimpose its ideas and scuttle down the discretion to an illusion.

32. The petitioner had indulged in drinking and womanizing in a room behind the premises of the activities carried out by the petitioner clearly impair the image of the Bank and have far reaching consequences. It is for this

reason that it has been repeatedly observed by the Supreme Court that every employee of the Bank would strive to see that the banking operations or services rendered in the best interest of the system and any conduct that damages, destroys, defeats or tends to defeat the said purposes should be meted out with disciplinary action. The act committed by the petitioner in associating illicitly with woman is clearly forbidden and would tend to lower the image of the Bank in the eyes of the public. The reputation of the Bank would obviously get affected. Thus, in view of the aforesaid decisions of the Supreme Court, it is evident that the act committed by the petitioner was an act prejudicial to the interest of the Bank. It cannot, therefore, be said that Clause 19.5 (j) was not attracted."

Similarly, Petitioner herein was found indulged in harassing female students and staff and also using foul and abusive language which amounts to misconduct of moral turpitude and for that conduct, employee is liable to termination or dismissal.

In **Coal India Ltd., & Anr., Vs. Mukul Kumar Choudhari & Ors in Civil Appeal Nos.5762-5763 of 2009, wherein the Apex Court has laid down the test for deciding proportionality of punishment imposed and held:**

"One of the tests to be applied while dealing with the question of quantum of punishment would be : would any reasonable employer have imposed such punishment in like circumstances: Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment."

When the above prescribed test is applied to the facts of the present case it can reasonably understood that impugned order of punishment of discharge from service inflicted upon the Petitioner withstood the said test. In the circumstances of the present case, any employer would reasonably come to the conclusion of terminating or discharging such employee who has committed grave misconduct of moral turpitude by using abusing or foul language against the female co-employees as well as students and also harassing them. Further, the Petitioner has not furnished any plausible explanation for committing such grave misconduct with the female staff and students despite the sufficient opportunity was afforded to him by the Respondent Management. However, it has came on the record that it is not the first time when Petitioner committing such misconduct. It has been a habitual practice of the Petitioner, committing such behaviour against the female staff in the past and despite the warning to reform his conduct has been issued by the Respondent to the Petitioner, he did not pay heed to that warning. However, the Petitioner has also admitted his guilt of alleged misconduct and has apologized in Ex.M4 not to repeat such conduct in future again. But repeatedly he has committed such misconduct and found guilty of the same. Therefore, any reasonable employer would have imposed such punishment of discharge of the employee, in like circumstances as present in the matter at hand.

Further, in **State of U.P. vs. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276],** Hon'ble Apex Court held that the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent and held also,

"*It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience*."

Thus, after considering the facts and circumstances of the present case, and in view of the law laid down by the Hon'ble Court as discussed above, I am of the view that the Petitioner has been found guilty committing misconduct of moral turpitude, and such misconduct of Petitioner is so grave that Respondent has no alternative but to discharge the Petitioner from service. Therefore, the punishment of discharge in the present case can not be said to be shocking to one's conscious while imposing the punishment of discharge from service. Thus, in the facts and circumstances of the present case I found no ground to warrant interference in the quantum of the punishment imposed by the Respondent.

16. Thus, in view of the law laid down by the Apex Court and High Court as discussed above and in the facts and circumstances of the case, Petitioner has been found guilty of committing misconduct with the female staff and the students, and in such cases no one employer would tolerate and repose his confidence in such employee. Hence, the discharge order of the Petitioner from the service passed by Respondent can not be termed as disproportionate to the alleged misconduct. Thus, the action of the Respondent in discharging the services of the Petitioner is found legal and justified.

This, Point No.I is answered accordingly.

17. **Point No. II:** In view of the fore gone discussion and findings arrived at Point No.I the Petitioner is not entitled to any relief and the petition is liable to be dismissed.

Thus, Point No. II is answered accordingly.

AWARD

In view of the findings arrived at Points No.I & II and law laid by the Hon'ble Apex Court, it can safely be concluded that the action of the Management in discharging Petitioner,(Late) Sri I.K. Swamy Das from service vide

order dated 17.11.2009 is held legal and justified. Hence, the Petitioner is not entitled to any relief as prayed for. Petition is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 27th day of March, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri I.K. Swamy Das (Died)	MW1: Smt. Renu Kapoor
	MW2: Sri Srihari Kayal

Documents marked for the Petitioner

Ex.W1:	Appointment Letter of Petitioner No.FPAI/Hy/2003/190dt. 17.4.2003
Ex.W2:	Photostat copy of letter No.FPAI/Hyd/2009/282 dt. 17.11.2009
Ex.W3:	Photostat copy of legal notice dt.6.12.2009

Documents marked for the Respondent

Ex.M1:	Photostat copy of complaint against Petitioner dt.4.3.2009 from three Assistant Cooks
Ex.M2:	Photostat copy of complaint against Petitioner dt.4.3.2009 by Warden
Ex.M3:	Warning letter to Petitioner
Ex.M4:	Photostat copy of apology letter by Petitioner
Ex.M5:	Photostat copy of day to day enquiry proceeding
Ex.M6:	Photostat copy of enquiry report

नई दिल्ली, 9 अक्तूबर, 2024

का.आ. 1928.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, जबलपुर केपंचाट(एलसी-आर/**58/2009**) को प्रकाि ात करती है, जो केन्द्रीय सरकार को **01/10/2024** को प्राप्त हुआ था।

[सं. एल–22012/57/2008-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 9th October, 2024

S.O. 1928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference.LC/R/58/2009*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **W.C.L,** and their workmen, received by the Central Government on **01*/10/2024***.

[No. L-22012/57/2008 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/58/2009

Present: P.K. Srivastava

H.J.S..(Retd)

General Secretary

Sanyukta Koyala Mazdoor Sangh (AITUC)

CRO Camp, Iklehra, Chhindwara (MP)

WORKMAN

Versus

The Chief General Manager,

Pench Area of WCL,

Parasia, Chhindwara (MP)

MANAGEMENT

(JUDGEMENT)

(Passed on this 13th day of September-2024)

As per letter dated 23/04/2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received under Section -10 of Industrial Disputes Act, 1947 as per Notification No. L-22012/57/2008/IR(C-II) dt. 23/04/2009. The dispute under reference relates to:

"Whether the action of the management of M/s. WCL, in terminating the service of Shri Ram Lakhan Shukla S/o. Rampher Shukla w.e.f. 22.03.2007, is legal and justified ? To what relief is the claimant entitled for ? "

After registering a case on the basis of the reference, notices were sent to the parties and were served. Parties appeared and file their respective Statement of Claims and Defense.

According to the workman union, the workman Ram Lakhan Shukla, who was working as a Clerk in the Mathani Mines, went to Allahabad on 22.01.2001 with his 21 co-workers by a special train to have holy bath in Kumbh but went missing from there. He was searched by his family members and his co-workers but of not avail. A missing report was lodged by his wife on 04.02.2001 in P.S. Kotwali at Allahabad. The management instituted a departmental enquiry against him for the charge of misconduct by way of wilfully absenting himself for long period. Notice of the enquiry was sent on his address mentioned by him in his service records which was received by his wife i.e. the mother of the applicant. She filed an application before the Enquiry Officer informing that her husband went missing since 22.01.2001 and his whereabouts were not known to the family. The enquiry proceeded against the workman which was in violation of Rules and Procedures. Holding the charges proved, the workman was terminated by management from service w.e.f. 22.03.2007, which is not legal and justified. The workman union sought the relief of setting aside the termination of the services of the workman and consideration of his dependants, including his wife, for death benefits.

The case of management, on this issue, is mainly that the workman Ram Lakhan Shukla absented himself continuously from duty. Management decided to conduct an enquiry. A charge sheet was issued against him and was served on his residential address. Management was informed that he was missing. A departmental enquiry was conducted. Notice of the departmental enquiry was sent on his residential address which was served on his family members. He did not appear in the enquiry rather his family informed that he was missing since 22.01.2001 and his whereabouts were not known. The enquiry was conducted in his absence. According to the management, the enquiry was not bad in law.

On the basis of pleadings following preliminary issue was framed which is as follows :-

Whether the departmental enquiry conducted is legal and proper ?

On the basis of evidence, this issue was decided vide order dated 14.05.2024 holding the Departmental Enquiry unjust and improper. The management could have been given an opportunity to prove the charges before this Tribunal but in light of the fact that the workman is now deceased before dismissal order was passed by management, no purpose in law would be served by giving opportunity to management to prove the charge before this Tribunal.

From the record itself, it transpired that the workman died even before the management passed the order of his termination after the enquiry. Hence, following additional issue was framed :-

"Whether the legal heirs of the workman are entitled to any relief in the light of the fact that the workman was no more on the date of his termination passed by management ?"

Learned Advocate Mr. Arun Patel appeared for workman, I have heard argument of learned Counsel for workman Mr. Arun Patel and learned Counsel Mr. Neeraj Kewat for management. I have gone through the record.

From the evidence on record, it is established that after the workman Ram Lakhan Shukla went missing and his missing report was registered by his family with the jurisdictional Police Station, he died on 23.01.2007. His death certificate, issued by the Municipal Corporation Varanasi, not disputed by management corroborates this assertion.

Since, services of the workman were terminated by management on 22.03.2007 i.e., on the date on which the workman was not alive, this termination order has no force in law and is liable to be set aside. The workman shall be treated in service of the management as its employee at the time of his death i.e., 23.01.2007. Since, the workman Ram Lakhan Shukla died while in service, his widow and dependants are held entitled to be considered for all post death benefits including compassionate appointment or in the alternate, monetary benefits on his death to his widow. Issue is answered accordingly.

Accordingly, the Reference is answered as follows :-

AWARD

Holding the action of the management of M/s. WCL, in terminating the services of Shri Ramlakhan Shukla w.e.f. 22.03.2007, illegal and unjustified, his widow and dependants are held entitled to all benefits admissible to them consequent to death of the workman in service including consideration of one dependant for compassionate appointment/ monetary benefit to his widow as per NCWA.

No order as to cost.

DATE:- 13/09/2024

P. K. SRIVASTAVA**,** Presiding Officer

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1929.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **मुख्य महाप्रबंधक, बीएसएनएल, यूपी (पूर्व) सर्किल, हजरतगंज, महात्मा गांधी मार्ग लखनऊ; उप मंडल अभियंता (विधि) बीएसएनएल, दूरसंचार जिला प्रबंधक कार्यालय, गोंडा (यूपी),**के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राम बहादुर वर्मा,कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **16 of 2007**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.10.2024 को प्राप्त हुआ था।

[सं. एल–40012/101/2007-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 10th October, 2024

S.O. 1929.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16 of 2007) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager, BSNL,UP (East) Circle, Hazaratganj, Mahatma Gandhi Marg Lucknow ;The Sub Divisional Engineer (Legal) BSNL,O/o Telecom Distt. Manager,Gonda (UP),and Shri Ram Bahadur Verma, Worker,** which was received along with soft copy of the award by the Central Government on 10.10.2024.

[No. L-40012/101/2007– IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 16/2007

Ref. No. No.L-40012/101/2006-IR (DU)

Ram Bahadur Verma **Vs**. The Chief General Manager (BSNL) & another

BETWEEN

Sri Ram Bahadur Verma S/o Sri Ram Bharose,

R/o Patel Nagar, Utraula Road, Gonda (U.P.)

… …… Workman

AND

(1) The Chief General Manager,

BSNL,

UP (East) Circle, Hazaratganj, Mahatma Gandhi Marg Lucknow.

(2) The Sub Divisional Engineer (Legal)

BSNL

O/o Telecom Distt. Manager

Gonda (UP) **…… . Respondent**

AWARD

By letter/reference dated 25.4.2007 the following dispute referred to this Tribunal for adjudication.

"Whether the action of the management of the Chief General Manager, Telecom, BSNL, Gonda/Lucknow in terminating the services of their workman Shri Ram Bahadur Verma w.e.f. 03.07.2001 is legal and justified? If not, to what relief the workman is entitled to."

Accordingly ID case No. 16/2007 registered before this Tribunal.

Case of claimant.

Ram Bahadur Verma claimant in his claim statement pleaded that he was initially appointed/engaged as casual labour on 19.05.1999 in the department of communication (now called BSNL) posted at Gonda U.P.

However his service was terminated/retrenched with effect from 03.07.2001 by the District Manager Telecom, Bharat Sanchar Nigam Gonda

Further the case as pleaded in the claim petition by the claimant in brief is as under:-

a. claimant-workman, as already stated in the preceding paragraphs, was appointed on casual basis in the month of May, 1999 in the office of the opposite party No. 2, i.e. the Telecom District Manager, BSNL, Gonda. However, the workman had not been issued any order for such appointment by the opposite parties. Since the date of his initial appointment, the workman performed the job and duties assigned to them by various officials of the opposite party No. 2 which included preparation of Duplicate Telephone Bills, preparation of Sub-Ledger accounts in the TRA Section, prepare/make entries of GPF contributions of both officers as well as other staff of the opposite party No. 2, compilation of accounts pertaining to PCO/STD etc. To substantiate the averments made in the preceding paragraphs, the workman has filed the following photocopies of 4 Nos. representative copies of the Duplicate Bills dated 19-03-2001 prepared by the claimant, in his handwriting, in respect of 4 different Telephone Numbers collectively as Annexure No. 2, photocopy of the Lists of Disconnected Telephone Numbers due to non-payment of Bill Amounts, prepared by the claimant, as Annexure No. 3, photocopies of some Telephone Bills/ Demand Notes of various dates issued by the claimant collectively as Annexure No. 4 to the list of documents/evidence.

The aforementioned documents themselves are self- explanatory which go to prove the claims of the workman regarding his working and duration of such workings under the opposite party No. 2.

b. That the officials/superior officers under whom the workman performed the work assigned to him were

pleased with his performance and conduct and no complaints whatsoever was raised or made against him by either his superiors or the public at large during his service tenure. The workman's efficient performance of his assigned duties and good conduct have earned him felicitations and commendations and in this regard, he was also issued certificates to that effect by the BSNL Officials which reflect the honest, efficient and diligent performance of the jobs and duties by the claimant. The claimant-workman has filed a photocopy of the Certificate dated 26-11-2000 issued by the opposite parties in respect of the claimant certifying that he carried out Sub-Ledger work and other works from 22-11-99 to 26-11-2000 in TRA Section Office under the opposite party No. 2 as Annexure No. 5, copy of a List dated 1-10-99 which contains the date-wise details of the working of the claimant during September, 1999 as Annexure No. 6, copy of a List dated 1-8-2000 which contains the date-wise details of the working of the claimant during July, 2000 as Annexure No. 7, copy of the Attendance Register for the month of May, 1999 which bears the regular signatures marking the attendance of the applicants and other staff as Annexure No. 8 to the list of documents/evidence.

c. That it is worthwhile to mention here that the workman claimant was working continuously without any break interruption whatsoever from the initial date of his appointment till the date of the arbitrary, illegal and unjustified oral termination of his services by the Management. The workman has worked more than 240 days each in each calendar year, subsequent to his appointment. The duty hours of the workman were as per the duty hours of his regularly appointed counter parts in the office of the District Manager, Telecom, BSNL, Gonda,

d. That it is also relevant to mention here that the workman has also put his regular attendance since the date of his initial appointment in the office of the District Manager, Telecom, BSNL, Gonda which evidently and conclusively establish the fact that the workman has worked regularly and continuously in the said office.

e. That the workman, being in continuous service though on daily wage basis since his initial appointment performing the jobs and duties of perennial nature and continuity - on account of the fact that the Bharat Sanchar Nigam Ltd. is the largest telephone service provider in the Public Sector in the country, requested the management for regularizing his services so as to enable his receive salary and allowances as admissible to the regular staff. In this regard, it is relevant to submit here that the workman preferred representation dated 08-01-2001before the management praying for his appointment on regular basis and payment of regular salary and allowances as are admissible to the regularly appointed counter parts in the BSNL.

f. That it is also pertinent to mention here that taking cognizance of the requests of the workman and similarly placed other employees on casual/daily wage basis in the Department for regularization of his services, the Chief General Manager, Telecom, U.P. (East) Circle, Lucknow opposite party No. 1 issued a letter dated 28-05-2001, asking for the names of those persons who were/are working casually in the Department for the purpose of regularization of their services. A true copy of the said letter dated 28-05-2001 issued by the Chief General Manager, Telecom, U.P. (East) Circle, Lucknow is being along with documents filed along with documents as Annexure No. 9.

g. That in pursuance to the aforesaid letter dated 28-05-2001 issued by the Chief General Manager, Telecom, U.P. East Circle, the District Manager, Telecom, BSNL, Gonda however vide his letter dated 11-09-2001 sent the names of only those casual/daily wage employees who were his favorites and choice, by adopting the 'choose and pick policy, obviously for extraneous considerations and although the workman was absolutely fit and just case for regularization of his services, his name was not purposely forwarded to the Chief General Manager, Telecom, BSNL, U.P. East Circle by the District Manager, Telecom, BSNL. Gonda for consideration for regularization of his services for reasons best known to him. The name of the workman/ claimant although he was fully eligible and qualified for being regularized was not forwarded by the opposite party No. 2 and names of several such persons who had less experience and less-working in the Department than the workman were forwarded by the opposite party No. 2 in a most arbitrary, discriminatory and illegal manner.

h. That it is further pertinent to mention here that by the nature of his employment, the workman fell within the category of workman as defined under section 2 (s) of the Industrial Disputes Act, 1947.

i. That as the workman has continuously worked for more than 240 days each in each calendar year since his initial appointment and keeping in view of his satisfactory performance of the duties assigned to him, and particularly in view of the perennial and permanent nature of the work performed by him and the perpetual availability of the same in the BSNL, the District Manager, Telecom, BSNL, Gonda ought to have forwarded the name of the workman/ claimant who was otherwise fully qualified and eligible for the post to the Chief General Manager, U.P. (East) Circle, Lucknow for regularization of his services, but in effect, just after receipt of the representation dated 08-01-2001 preferred by the workman for his regularization, the said District Manager, Telecom, BSNL, Gonda decided to orally terminate his services without any notice or without assigning any reason or without making the requisite payment in lieu of the notice period and without making the payment of retrenchment compensation and in utter violation of the provisions contained

in Section 25 (f) of the Industrial Disputes Act, 1947.

Accordingly relief as claimed by the claimant is as under:-

> *Wherefore, it is most respectfully prayed that this Hon'ble Court may very kindly be pleased to aside the oral termination of the service of the workman-claimant by the District Manager, Telecom, BSNL, Gonda and direct the management to reinstate the workman in service will full back wages and regularize his services and pay him regular salary and allowances, admissible to the regularly selected employee in the BSNL, as and when the same becomes due.*

Accordingly it is requested on behalf of workman that the present I.D. case may be allowed, relief as claimed by him it has been prayed, may be granted.

Case of respondent

Respondent in their claim statement taken preliminary objection that the claimant/workman Ram Bahadur Verma is not *"workman*" as he does not fall within the scope of definition of workman as given in section 2(S) of the Industrial Dispute Act, 1947

Further the fact as pleaded in the written statement are as under:-

a. Applicant was never appointed against any post in the office of District Manager Telecom Bharat Sanchar Nigam Ltd, Gonda Hence the question of his continuously working on the said office does not arise. The contents of this para are imaginary and mis-leading

A. The applicant was never appointed against any post nor engaged on daily wage basis, the question of his performing duties as per direction and dictates of the District Manager, Telecom Bharat Sanchar Nigam Ltd, Gonda does not arise, the statement in this para is fake and frivolous.

B. The workman has failed to produce any document in support of his averments that he has continuously worked under the the answering Respondents w.e.f 19-5-99. Since the claimant was never appointed against any post therefore termination of services of claimant either orally or in written does not arise.

C. There was a complete ban in the department after 1996 for recruitment of daily wagers and as such the claim of the workman that he was appointed in the month of May, 1999 in the office of Telecom District Manager, B.S.N.L Gonda is incorrect. Had it being the correct averments of the workman than it is incumbent upon. him to produce the formal appointment order Therefore, it is clear that claimant was never appointed against any post or in any capacity in the office of District Manager Telecom Bharat Sanchar Nigam Ltd. Gonda. Since claimant was never appointed in any capacity by the answering opposite parties, therefore, taking work of any kind as alleged by the claimant does not arise. Hence the contents of this para are false and fabricated. The statement of the workman that he has performed official works of the Gonda Telecom District is irrelevant and misleading. It is further submitted that consequent upon increase of telephone connections and modernization of Revenue department a computer Trichur Package has been introduced after abolishing Manual Bill in 1996 and after introducing computer Trichur package. the computerized telephone bills are prepared and the basis of meter readings received from telephone exchange, which bears following information/report-

(A) Telephone No. and consumer. No.

(B) Metre reading received from exchange, free calls.

(C) Amount due on effective calls

(D) Telephone Rent on the basis of Exchange capacity.

(E) Service Tax, Surcharge and mentioned in the back of bill other information

Accordingly learned counsel for respondent argued that annexure annexed by the complainant are fabricated and misleading denied are such as The disconnection list of telephone of consumers are prepared from computers which bears Telephone No name amount due and of consumer, amount due and other information.

He further submits that complainants averment regarding GPF posting and other related work is fabricated and misleading as such are denied, it is not worthy to mention here that GPF Ledger Cards bears the entry of deposited amount which is done by Circle Office. The GPF ledger cards do not bear the signatures of any officer or employee in view of above facts mentioned in above paras complainants could not able to prove their case of working as such they are not entitled any relief from this Hon'ble Tribunal.

In view of the above said facts learned counsel for respondent argued as under:-

a. Since the claimant was never appointed in any capacity in the office of District Manager, Telecom Bharat

Sanchar Nigam Ltd., Gonda therefore, the question of working more than 240 days in each calendar year does not arise. Therefore, the contention of the claimant that he has worked continuously for more than 240 days in each calendar year is false and baseless.

b. The applicant has neither worked in the office of District Manager. Telecom Bharat Sanchar Nigam Ltd., Gonda in any capacity of employment. His statement for putting him in regular attendance is false and baseless as he was never appointed in any capacity in the office of District Manager, Telecom Bharat Sanchar Nigam Ltd., Gonda.

c. The applicant was not appointed in the Department on daily wages basis. Hence the question of consideration of his application for regularization his services does not arise. The argument for preferring his representation dated 8-1- 2001 is irrelevant, false and manipulated records.

d. The plea of the applicant that Chief General Manager, Telecom (E), Lucknow, has issued letter dated 28-5-2001 asking for the names of those persons, who were/ are working casually in the Department is a general letter which had not been particularly addressed to T.D.M., Gonda as is clear from the letter itself. As such, query or question taking up the case for regularization of the applicant does not arise.

e. The applicant was not employed in any capacity of casual or daily wages as such his case does not fall within the category of workman as defined under section 2 (s) of the industrial Disputes Act, 1947.

Accordingly learned counsel for respondent Sri Vishal Agrawal request that the claim petition filed by claimant is misconceived, liable to be dismissed.

Finding & conclusion

In the present case in spite of the notice, none appeared on behalf of appellant.

Accordingly I proceed to decide the matter on merit.

After hearing Sri Vishal Agrawal Advocate holding brief Smt. Aneet Agrawal learned counsel for the respondent going through material on record the following points are to be considered in the present case.

(A) Whether Sri Ram Bahadur Verma/claimant is worker or not?.

(B) "*Whether prior to retrenchment/termination of services of claimant has completed 240 days while discharging his duties as casual worker in the last calendar, if so, the action on the part of respondent thereby retrenching the services of claimants without following the mandatory provisions of Section 25-F of I.D. Act is valid or not? If their services are retrenched or terminated without complying the mandatory provisions of Section 25-F of the Act by the respondent, then they are entitled for regularization of service w.e.f. 3.4.2001 or not?*"

Finding on point No. A

In order to decide the present controversy it will be appropriate to state that under the Industrial Dispute Act, 1947 (hereinafter referred to as I.D. Act) workman is defence under section 2(s) of the ID Act.

Further the definition under this Section has undergone changes since its first enactment. The definition, as it stood originally when the ID Act came into force w.e.f. 1.4.1947, read as follows:-

> *"(s) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceeding under this Act in relation to an industrial dispute, but does not include any person employed in the naval, military, or air service of the Crown*."

The definition was amended by Amending Act No. 36 of 1956 which came into force from 29th August, 1956 to read as follows:-

> *(s) "workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal discharge, or retrenchment has led to that dispute, but does not include any such person -*
>
> *(i) who is subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy (Discipline)Act, 1934; or*
>
> *(ii) who is employed in the police service or as an officer or other employee of a prison; or*
>
> *(iii) who is employed mainly in a managerial or administrative capacity; or*
>
> (i) *who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per*

mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

The change brought about by this Amendment was that the persons employed to do "supervisory" and "technical" work were also included in the definition for the first time by this Amendment, although those who were employed in a supervisory capacity were so included in the definition provided their monthly wage did not exceed Rs.500.

The definition of 'workman' was further amended by Amending Act No.46 of 1982 which was brought into force w.e.f. 21.8.1984 and the same reads as under:-

"(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal discharge, or retrenchment has led to that dispute, but does not include any such person-

(i)who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957);

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

A bare perusal of the aforementioned provision clearly indicates that a person would come within the purview of the said definition if he : (i) is employed in any industry; and (ii) performs any manual, unskilled, skilled, technical, operational, clerical or supervisory work.

Hon'ble the Apex Court in the case of ***All India Reserve Bank Employees Association Versus Reserve Bank of India reported in AIR 1966 SC 305*** held as under:-

17. *However, in view of the importance of the subject and the possibility of a recurrence of such question in other spheres, and the remarks of the National Tribunal as to jurisdiction of the Central Government and itself we have considered it necessary to go into some of the points mooted before us. Before we deal with them we shall read some of the pertinent definitions from the Industrial Disputes Act, 1947 :*

"2. In this Act, unless there is anything repugnant in the subject or context,--

(k) "Industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or nonemployment or the terms of employment or with the condition of labour, of any person;

(rr) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work clone in such employment, and includes-

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any confessional supply of woodgrains or other articles;

(iii) any traveling concession;

but does not include-

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service.

(s) "workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, include,,% any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led

to that dispute, but does not include any such person-

(i) who is subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy (Discipline) Act, 1934, or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per menses or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

23. *The argument is extremely ingenious and the simile interesting but it misses the realities of the amendment of the Industrial Disputes Act in 1956. The definition of 'workman' as it originally stood before the amendment in 1956 was as follows :-*

"2.(s) 'workman' means any person employed (including in apprentice) in any industry to do any skilled (11) 91 L. ed. 104 or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute a workman discharged during that dispute, but does not include any person employed in naval, military or air service of the Government."

24. The amending Act of 1956 introduced among the categories of persons already mentioned persons employed to do supervisory and technical work. So far the language of the earlier enactment was used. When, however, exceptions were engrafted, that language was departed from in clause (iv) partly because the draftsman followed the language of clause(iii) and partly because from persons employed on supervision work some are to be excluded because they draw wages exceeding Rs. 500 per month and some because they function mainly in a managerial capacity or have duties of the same character. But the unity between the opening part of the definition and clause (iv) was expressly preserved by using the word 'such' twice in the opening part. The words, which bind the two parts, are not-"but does not include any person". They are -- "but does not include any such person showing clearly that what is being excluded is a person who answers the description " employed to do supervisory work" and he is to be excluded because being employed in a 'supervisory capacity' he draws wages exceeding Rs. 500 per month or exercises functions of a particular character. The scheme of our Act is much simpler then that of the American statutes. No doubt like the Taft-Hartley Act the amending Act of 1956 in our country was passed to equalize bargaining power and also to give the power of bargaining and invoking the Industrial Disputes Act to supervisory workmen, but it gave it only to some of the workmen employed on supervisory work. 'Workman' here includes an employee employed as supervisor. There are only two circumstances in which such a person ceases to be a workman. Such a person is not a workman if he draws wages in excess of Rs. 500 per month or if he performs managerial functions by reason of a power vested in him or by the nature of duties attached to his office. The person who ceases to be a workman is not a person who does not answer the description "employed to do supervisory work" but one who does answer that description. He goes out of the category of "workmen" on proof of the circumstances excluding him from the category."

Further in the case of ***H.R. Adyanthaya & others Versus Sandoz India Ltd. reported in (1994) 5 SCC 373***, the Hon'ble Apex Court held as under:-

"10. It is thus obvious from the decision that the contention on behalf of the workman before the Industrial Tribunal as well as before this Court was that the employee was doing either manual or clerical work, and that not only he had no supervisory duties but he was doing his work under the direction of his superiors and, therefore, he was a workman within the meaning of the definition of workman as it stood then. The dispute in question had arisen prior to 6th January, 1956. The definition of 'workman' at the relevant time included only those persons who were employed to do any skilled or unskilled manual or clerical work. Hence the relevant contention on behalf of the workman which was negatived by this Court. An inference from this decision is also possible, viz., that if the employees' work was mainly manual or clerical, he would have, even as the definition stood then, been covered by it."

Hon'ble the Supreme Court in the case of ***C.G. Gupta Versus Glaxo Smith Klin Pharmaceutical Limited reported in (2007) 7 SCC 171*** held as under:-

"23. In the present case, we find that for determining the nature of amendment, the question is whether it affects the legal rights of individual workers in the context that if they fall within the definition then they would be entitled to claim several benefits conferred by the Act. The amendment should be also one which would touch upon their substantive rights. Unless there is a clear provision to the effect that it is retrospective or such retrospectivity can be implied by necessary implication or intendment, it must be held to be prospective. We find no such clear provision or anything to suggest by necessary implication or

intendment either in the amending Act or in the amendment itself. The amendment cannot be said to be one which affects procedure. In so far as the amendment substantially changes the scope of the definition of the term "workman" it cannot be said to be merely declaratory or clarificatory. In this regard we find that entirely new category of persons who are doing "operational" work was introduced first time in the definition and the words "skilled" and "unskilled" were made independent categories unlinked to the word "manual". It can be seen that the Industrial Disputes (Amendment) Act, 1984 was enacted by Parliament on 31.8.1982. Page 2633 However, the amendment itself was not brought into force immediately and in Sub-section (1) of Section 1 of the Amending Act, it was provided that it would come into force on such day as the Central Government may be Notification in the official Gazette, appoint. Ultimately, by a Notification the said amendment was brought into force on 21.8.1984. Although this Court has held that the amendment would be prospective if it is deemed to have come with effect on a particular day, a provision in the amendment Act to the effect that amendment would become operative in the future, would have similar effect.

24. Therefore, by the application of the tests mentioned above, it is clear that the definition of workman as amended must, therefore, presumed to be prospective.

25. In this regard we would like to give one further reason as to why the definition of workman as prevailing on the date of dismissal should be taken into account. When the workman is dismissed, it is usually contended (as has been done in the present case) that the relevant conditions precedent for retrenchment under Section 25N having not been followed and that, therefore, the termination is illegal. Section 25Q of the Industrial Disputes Act, 1947 lays down that contravention of the provision of Section 25N shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to Rs. 1000/- or with both. It is, therefore, clear that on the date of dismissal, the employer must act according to the then prevailing provision of law. It is only in respect of a workman who is then within the definition of Section 2(s) of the Act that the employer is required to follow the condition mentioned in Section 25N, failing which, he will commit an offence. If the employee so dismissed, later becomes a person who is a workman within an expanded definition brought about by a subsequent amendment held to be of retrospective nature, the employer will be rendered punishable for an offence under Section 25N and Q as this would amount to the employer being punishable for an offence, which he could not have envisaged on the date of dismissal. This would be violative of Article 20(1) of the Constitution.

26. In Burmah Shell's case (supra) it was held as follows:

> *In this connection, we may take notice of the argument advanced by Mr. Chari on behalf of the Association that, whenever a technical man is employed in an industry, it must be held that he is employed to do technical work irrespective of the manner in which and the occasions on which the technical knowledge of that person is actually brought into use. The general proposition put forward by him was that, if a technical employee even gives advice or guides other workmen, it must be held that he is doing technical work and not supervisory work. He elaborated this submission by urging that, if we hold the supervisory work done by a technician as not amounting to his being employed to do technical work, the result would be that only those persons would be held to be employed on technical work who actually do manual work themselves. According to him this would result in making the word "technical" redundans in the definition of 'workman' even though it Page 2634 was later introduced to amplify the scope of the definition. We are unable to accept these submissions. The argument that, if we hold that supervisory work done by a technical man is not employment to do technical work, it would result in only manual work being held to be technical work, is not at all conect. There is a clear distinction between technical work and manual work. Similarly there is a distinction between employments which 'are substantially for manual duties, and employments where the principal duties are supervisory or other type, though incidentally involving some manual work. Even though the law in India is different from that in England, the views expressed by Branson, J., in Appeal of Gardner : In re Maschek : In re Tyrrell [1938] 1 All E.R. 20 are helpful, because, there also, the nature of the work had to be examined to see whether it was manual work. As examples of duties different from manual labour, though incidentally involving manual work, he mentioned cases where a worker (a) is mainly occupied in clerical or accounting work, or (b) is mainly occupied in supervising the work of others, or (c) is mainly occupied in managing a business or a department, or (d) is mainly engaged in salesmanship, or (e) if the successful execution of his work depends mainly upon the display of taste or imagination or the exercise of some special mental or artistic faculty or the application of scientific knowledge as distinguished from manual dexterity. Another helpful illustration given by him of the contrast between the two types of cases was in the following words:*
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> > *If one finds a man employed because he has the artistic faculties which will enable him to produce something wanted in the shape of a creation of his own, then obviously, although it involves a good deal of manual labour, he is employed in order that the employer may get the benefit of his creative faculty.*

The example (e), given above, very appropriately applies to the case of a person employed to do technical work. His work depends upon special mental training or scientific or technical knowledge. If the man is employed because he possesses such faculties and they enable him to produce something as a creation of his own, he will have to be held to be employed on technical work, even though, in carrying out that work, he may have to go through a lot of manual labour. If, on the other hand, he is merely employed in supervising the work of others, the fact that, for the purpose of proper supervision, he is required to have technical knowledge will not convert his supervisory work into technical work. The work of giving advice and guidance cannot be held to be an employment to do technical work."

Hon'ble the Apex Court in the case of ***Chauharya Tripathi & others Versus L.I.C. of India & others reported in 2015 (7) SCC 263***, in Para-7 held as under:-

"7. *Keeping in view the question posed at the beginning, we are obligated to make a survey of the authorities that have been pronounced by this Court specifically pertaining to the Development Officers working in LIC. A three-Judge Bench of this Court in S.K. Verma vs. Mahesh Chandra & Anr.3, adverted to the definition of 'workman' as originally defined under Section 2(s) of the Act and the substantial amendment that was brought in 1956 in respect of the definition of 'workman' and referred to the decision in Workmen vs. Indian Standards Institution4 and dwelled upon the hierarchy of officers working in LIC, the duties performed by such officers and 2 (2008) 11 SCC 319 3 (1983) 4 SCC 214 4 (1975) 2 SCC 847 eventually held thus :*

> *"A perusal of the above extracted terms and conditions of appointment shows that a development officer is to be a whole time employee of the Life Insurance Corporation of India. that his operations are to be restricted to a defined area and that he is liable to be transferred. He has no authority whatsoever to bind the Corporation in anyway. His principal duty appears to be to organise and develop the business of the Corporation in the area allotted to him and for that purpose to recruit active and reliable agents, to train them to canvass new business and to render post-sale services to policy-holders. He is expected to assist and inspire the agents. Even so he has not the authority to appoint agents or to take disciplinary action against them. He does not even supervise the work of the agents though he is required to train them and assist them. He is to be the 'friend, philosopher and guide' of the agents working within his jurisdiction and no more. He is expected to stimulate and excite the agents to work, while exercising no administrative control over them. The agents are not his subordinates. In fact, it is admitted that he has no subordinate staff working under him. It is thus clear that the development officer cannot by any stretch of imagination be said to be engaged in any administrative or managerial work. He is a workman within the meaning of s.2(s) of the Industrial, Disputes Act*."

(*See also :* ***Om Carrying Corporation Versus Tilock Narang & others reported in 2016(148) FLR 915 & T.Boby Francis Versus Lucy Varghese & others reported in 2016(149) FLR 866***)

Hon'ble Punjab & Haryana High Court in the case of ***Jagdish Prasad Sharma Versus Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram & another reported in 2023 (178) FLR 565*** held as under:-

> *"5. After hearing learned counsel and consideration his submissions, it transpires that in the ex parte evidence in support of his claim, the petitioner tendered affidavit Ex.PW1/A in evidence and a perusal of the same shows that it is no where mentioned by the petitioner that he by the nature of his duties and work is a workman. Further, it is categorically mentioned therein that he joined the respondent-Company as Superintendent Grade-II, who was later on confirmed as an Operation Manager and worked till 01.06.2020. The petitioner revealed his last drawn wages as Rs.40,500/- per month. A perusal of the impugned award shows that the Labour Court has carefully examined the evidence on record including his affidavit Ex.PW-1/A, while holding that he failed to lead any evidence that he is a workman and dismissed his claim. In the given facts this Court does not find any merit in the argument that petitioner would fall within the definition of workman defined in Section 2(s) Industrial Disputes Act, 1947. Further, the decision in S.K. Maini's case (supra) relied upon by learned counsel for the petitioner also does not lend any help to the petitioner's case, wherein, it was held that whether an employee is a workman or not is required to be determined with reference to the nature of duties and functions. The relevant observations read as under:-*
>
> > *"After giving our careful consideration to the facts and circumstances of the case and the submissions made by the learned counsel for the parties, it appears to us that whether or not an employee is a workman under Section 2(s) of the Industrial Disputes Act is required to be determined with reference to his principal nature of duties and functions. Such question is required to be determined with reference to the facts and circumstances of the case and materials on record and it is not possible to lay down any strait-jacket formula which can decide the dispute as to the real nature of duties and functions being performed by an employee in all cases. When an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the appropriate classification but in the complexity of industrial or commercial organizations quite a large number of employees are*

often required to do more than one kind of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it."

6. The Hon'ble Supreme Court while rejecting the case of appellant on merits also analyzed the nature and work of the appellant therein and upheld the findings of the High Court that he being Manager/In-charge of the shop was not a workman under Section 2(s) Industrial Disputes Act, 1947."

Recently the Bombay High Court in the case of ***M/s. S.K. International & another Versus Ashok Tanaji Tambe & another reported in 2024 (180) FLR 994*** has held as under:-

"17. On the aspect of determination of status of workmen, within the meaning of Section 2(s) of the ID Act, 1947, the legal position is fairly crystallized. Such determination must be based on the appreciation of the nature of the duties performed by the employee. Nomenclature of the post, which the employee holds, is not of decisive significance. The description of the nature of the duties also does not furnish a surer foundation for determination. Use of grandstanding expressions and management jargon to describe otherwise ordinary and normal functions, is not uncommon. It is, therefore, necessary to correctly appreciate the nature of the core duties discharged by a person whose status is questioned.

18. Section 2(s) of the ID Act, 1947 defines the expression workman to mean any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. In the case of H.R. Adyanthaya and ors. vs. Sandoz (India) Ltd., the Constitution Bench of the Supreme Court enunciated that to be qualified to be workman under Section 2(s), the person must be employed to do the work which falls in any of the specified categories, manual, unskilled, skilled, technical, operational, clerical or supervisory. To put it in other words, it is not enough that a person is not covered by any of the four exceptions to the definition. It is also fairly well settled that the burden is on the person, who asserts the status of the workman under Section 2(s) to establish with reference to the dominant nature of his duties that the work which the said person performs falls within one of the specified categories under Section 2(s) of the Act, 1947.

19. In the case of Burmah Shell Oil Storage and Distribution Company of India Ltd. V/s. The Burmah Shell Management Staff Association and Others the Supreme Court adverted to a situation where an employee is entrusted to discharge multifarious duties. In such cases, the Supreme Court held, it would be necessary to determine under which classification the employee will fall for the purpose of finding out whether he does not go out of the definition of "workman" under the exceptions. The principle is now well settled that for this purpose, a workman must be held to be employed to do that work which is the work he is required to do, even though he may be incidentally doing other types of work. The Supreme Court referred to its earlier decision in the case of Ananda Bazar Patrika (P) Ltd. Vs. Workmen, where the principle was enunciated as under:

"3. The question whether a person is employed in a supervisory capacity or on clerical work, in our opinion, depends upon whether the main and principal duties carried out by him are those of a supervisory character, or of a nature carried out by a clerk. If a person is mainly doing supervisory work, but, incidentally or for a fraction of the time, also does some clerical work, it would have to be held that he is employed in supervisory capacity; and, conversely, if the main work done is of clerical nature, the mere act that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity. ...."

(emphasis supplied)

20. In the case of Arkal Govind Raj Rao vs. CIBA Geigy and India Ltd. another three-judge Bench of the Supreme Court re-exposited the principle in the following words:

"6. where an employee has multifarious duties and a question is raised whether he is a workman or someone other than a workman the Court must find out what are the primary and basic duties of the person concerned and if he is incidentally asked to do some other work, may not necessarily be in tune with the basic duties, these additional duties cannot change the character and status of the person concerned. In other words, the dominant purpose of employment must be taken into consideration and the gloss of some additional duties must be rejected while determining the status and character of the person. ....."

21. A useful reference in this context can also be made to a decision of the Supreme Court in the case of S.K.Maini V/s. M/s. Carona Sahu Company Ltd. and Anr.10 wherein it was enunciated that when an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the appropriate classification but in the complexity of industrial or commercial organizations quite a large number of employees are often required

to do more than one kind of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it. In this connection, reference may be made to the decision of this Court in Burmah Shell Oil Storage (supra). In All India Reserve Bank Employees' Assn. V/s. Reserve Bank of India, it has been held by this Court that the word 'supervise' and its derivatives are not words of precise import and must often be construed in the light of context, for unless controlled, they cover an easily simple oversight and direction as manual work coupled with the power of inspection and superintendence of the manual work of others. It has been rightly contended by both the learned counsel that the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. The determinative factor is the main duties of the employee concerned and not some works incidentally done. In other words, what is, in substance, the work which employee does or what in substance he is employed to do. Viewed from this angle, if the employee is mainly doing supervisory work but incidentally or for a fraction of time also does some manual or clerical work, the employee should be held to be doing supervisory works. Conversely, if the main work is of manual, clerical or of technical nature, the mere fact that some supervisory or other work is also done by the employee incidentally or only a small fraction of working time is devoted to some supervisory works, the employee will come within the purview of 'workman' as defined in Section 2(s) of the Industrial Disputes Act."

Hon'ble the Supreme Court by means of judgment dated 2.4.2004 passed in the case of ***M/s. Bharat Airtel Limited Versus A.S. Raghavendra passed in Civil Appeal No.5187 of 2023 (2024 INSC 265)*** after taking into consider the definition of 'workman' as given u/s 2 's' of the I.D. Act, 1947; and various judgments on the point in issue, held as under:-

"23. The records also show that the respondent, in fact, performed a supervisory role over the managers and was the Assessing Manager of his team, which consisted of Managers in the B-1 & B-2 Levels. Moreover, after adducing the evidence led by both sides, the Labour Court vide a detailed order and discussion, has held the respondent not to be covered under "workman" as per Section 2(s), ID Act. The learned Single Judge has not appreciated the discussion by the Labour Court and the available evidence in their true perspective, relying mainly upon the judgment in Ved Prakash Gupta (supra). In Paragraph 12 of Ved Prakash Gupta (supra), it was held "...It must also be remembered that the evidence of both WW1 and MW1 shows that the appellant could never appoint or dismiss any workman or order any enquiry against any workman. In these circumstances we hold that the substantial duty of the appellant was only that of a Security Inspector at the gate of the factory premises and that it was neither managerial nor supervisory in nature in the sense in which those terms are understood in industrial law. In the light of the evidence and the legal position referred to above we are of the opinion that the finding of the Labour Court that the appellant is not a workman within the meaning of Section 2(s) of the Act is perverse and could not be supported."

24. A bare perusal of the above makes it crystal clear that absence of power to appoint, dismiss or conduct disciplinary enquiries against other employees was not the only reason for the Court to conclude in Ved Prakash Gupta (supra) that the appellant therein was a "workman". At this juncture, we may note that although Ved Prakash Gupta (supra) was decided by a 3-Judge Bench, in a later judgment by a 2-Judge Bench of this Court in S K Maini v M/s Carona Sahu Company Limited, (1994) 3 SCC 510, it was held that "...It should be borne in mind that an employee discharging managerial duties and functions may not, as a matter of course, be invested with the power of appointment and discharge of other employees. It is not unlikely that in a big set-up such power is not invested to a local manager but such power is given to some superior officers also in the management cadre at divisional or regional level. ..." The judgment in S K Maini (supra) is innocent of Ved Prakash Gupta (supra), but we do not find any inconsistency in the statement of law laid down in S K Maini (supra), given our reading of Ved Prakash Gupta (supra) as enunciated hereinabove.

25. That being said, in our considered view, mere absence of power to appoint, dismiss or hold disciplinary inquiries against other employees, would not and could not be the sole criterion to determine such an issue. Holding otherwise would lead to incongruous consequences, as the same would, illustratively, mean that, employees in high-ranking positions but without powers to appoint, dismiss or hold disciplinary enquiry would be included under the umbrella of "workman" under Section 2(s), ID Act. We cannot be oblivious of the impact of our decisions. In this context, reference to the decision in Shivashakti Sugars Limited v Shree Renuka Sugar Limited, (2017) 7 SCC 729 is apposite:

"43. It has been recognised for quite some time now that law is an interdisciplinary subject where interface between law and other sciences (social sciences as well as natural/ physical sciences) come into play and the impact of other disciplines on Law is to be necessarily kept in mind while taking a decision (of course, within the parameters of legal provisions). Interface between Law and Economics is much more relevant in today's time when the country has ushered into the era of economic liberalization, which is also termed as "globalization" of economy. India is on 118 [2024] 4 S.C.R. Digital Supreme Court Reports the road of

economic growth. It has been a developing economy for number of decades and all efforts are made, at all levels, to ensure that it becomes a fully developed economy. Various measures are taken in this behalf by the policy-makers. The judicial wing, while undertaking the task of performing its judicial function, is also required to perform its role in this direction. It calls for an economic analysis of law approach, most commonly referred to as "Law and Economics". In fact, in certain branches of Law there is a direct impact of Economics and economic considerations play predominant role, which are even recognized as legal principles. Monopoly laws (popularly known as "Antitrust Laws" in USA) have been transformed by Economics. The issues arising in competition laws (which has replaced monopoly laws) are decided primarily on economic analysis of various provisions of the Competition Commission Act. Similar approach is to be necessarily adopted while interpreting bankruptcy laws or even matters relating to corporate finance, etc. The impress of Economics is strong while examining various facets of the issues arising under the aforesaid laws. In fact, economic evidence plays a big role even while deciding environmental issues. There is a growing role of Economics in contract, labour, tax, corporate and other laws. Courts are increasingly receptive to economic arguments while deciding these issues. In such an environment it becomes the bounden duty of the Court to have the economic analysis and economic impact of its decisions. 44.We may hasten to add that it is by no means suggested that while taking into account these considerations, specific provisions of law are to be ignored. First duty of the Court is to decide the case by applying the statutory provisions. However, on the application of law and while interpreting a particular provision, economic impact/effect of a decision, wherever warranted, has to be kept in mind. Likewise, in a situation where two views are possible or wherever there is a discretion given to the Court by law, the Court needs to lean in favour of a particular view which subserves the economic interest of the nation. Conversely, the Court [2024] 4 S.C.R. 119 M/S Bharti Airtel Limited v. A.S. Raghavendra needs to avoid that particular outcome which has a potential to create an adverse effect on employment, growth of infrastructure or economy or the revenue of the State. It is in this context that economic analysis of the impact of the decision becomes imperative."

Hon'ble the Bombay High Court in the case of ***Godrej and Boyce Manufacturing Company Ltd. Vs. Shivkranit Kamgar Sanghatana & others 2024 LLR 492*** held as under:

11. For the adjudication of the status of a workman, what is required to be seen is an emphasis on the actual work performed by such an employee. In other words, if the nature of duties actually performed predominantly shows that he discharges duties to do the work of any of the categories listed in Section 2(s). He is not covered by exceptions of Section 2(s); it would be decisive of the matter that the employee is a workman, and the designation or salary of the employee would be irrelevant.

12. It is now well settled that the adjudication of the issue as to person working within the meaning of Section 2(s) of the I.D. Act has to be determined with reference to the principle of nature of his duties and functions. The dominant purpose of employees must be taken into consideration, and the gloss of some additional duties must be rejected while determining the status and character of a person. The Tribunal needs to first address itself as to various duties assigned to the employees and then draw a conclusion of law as to whether in the light of duties assigned to him would be whether the employee would be working or not."

Accordingly, in brief it can be said that from perusal of definition of 'workman' indicates that a person would come within the purview of Section 2(s) of the I.D. Act if he is employed in an industry and performs any manual, unskilled, skilled, technical, operational, clerical or supervisory work. Further, the definition also indicates exceptions as to when a person would not be covered in the aforementioned definition. It inter alia states that a person would not be covered under the definition if (i) he is employed in a managerial or administrative capacity or (ii) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Reverting to the facts of present case, as per the pleadings/documents filed by the parties on record as well as the documentary and oral evidence led by them, from careful scrutiny of said materials, the position which emerged out that the claimants/workmen who was working on the post of casual labour before retrenchment of his services with the respondent/BSNL is workman as per the definition given u/s 2 's' of the Industrial Disputes Act 1947.

Finding on point No. B

In order to decide the point in question it is appropriate to have a glance of Section 2(oo), 2(s) and Section 25-F of I.D. Act, 1947 which reads as under:-

*"**2. (oo) "retrenchment"** means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include –*

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;

***2(s) "workman"** means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person--*

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

***25F. Conditions precedent to retrenchment of workmen**.-*

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

Hon’ble Delhi High Court in the case of ***Sarita Tiwari Versus Aastha Garments reported in 2024 (180) FLR 649*** after taking into consideration the definition of retrenchment read with provisions as provided under Section 25-F of the Act, held as under:-

“*20. It is well-settled that the burden to prove that the workman was in continuous employment of 240 days with the management is on the workman herself. This principle was reiterated by the Hon'ble Supreme Court in the landmark judgement of R.M. Yellatti v. Asstt. Executive Engineer, (2006) 1 SCC 106; the relevant paragraph is extracted below:-*

"17. Analysing the above decisions of this Court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings under Section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments, we find that this By:MANISH KUMAR W.P.(C) 5369/2019 8 of 16 Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily-waged earners, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (the claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register, etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the

claimant workman will not be the ground for the Tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the Labour Court unless they are perverse. This exercise will depend upon the facts of each case."

21. These principles were reiterated by the Hon'ble Supreme Court in Krishna Bhagya Jala Nigam Ltd. v. Mohd. Rafi, (2009) 11 SCC 522, and the law on this subject was traced as under in paragraphs 8 to 10:

"8. In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan [(2004) 8 SCC 161] the position was again reiterated in para 6 as follows : (SCC p.163)

'6. It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had in fact worked up to 240 days in the year preceding his termination. He has filed an affidavit. It is only his own statement which is in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year. These aspects were highlighted in Range Forest Officer v.S.T. Hadimani [(2002) 3 SCC 25]. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court to hold that the workman had worked for 240 days as claimed.'

9. In Municipal Corpn., Faridabad v. Siri Niwas [(2004) 8 SCC 195] it was held that the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment. In M.P. Electricity Board v. Hariram [(2004) 8 SCC 246] the position By:MANISH KUMAR W.P.(C) 5369/2019 10 of 16 was again reiterated in para 11 as follows : (SCC p. 250) '11. The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously. At this stage it may be useful to refer to a judgment of this Court in Municipal Corpn., Faridabad v. Siri Niwas [(2004) 8 SCC 195] wherein this Court disagreed with the High Court's view of drawing an adverse inference in regard to the non-production of certain relevant documents. This is what this Court had to say in that regard : (SCC p. 198, para 15)

"15. A court of law even in a case where provisions of the Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against his contentions. The matter, however, would be different where despite direction by a court the evidence is withheld. Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration is the background of facts involved in the lis. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds. In the instant case, the Industrial Tribunal did not draw any adverse inference against the appellant. It was within its jurisdiction to do so particularly having regard to the nature of the evidence adduced by the respondent."'

10. In RBI v. S. Mani [(2005) 5 SCC 100] a three- Judge Bench of this Court again considered the matter and held that the initial burden of proof was on the workman to show that he had completed 240 days of service. The Tribunal's view that the burden was on the employer was held to be erroneous. [...]"

22. In light of the law laid down by the Hon'ble Supreme Court, the initial question to be examined is whether the petitioner discharged her burden of proving that she was in continuous employment for at least 240 days in the year preceding her date of termination."

A Division Bench of Allahabad High Court in a case of ***Ghanshyam Prajapati Versus Union of India reported in 2024 (1) FLR 131***, after taking into consideration has held that if a workman has not completed 240 days in the last preceding year is not entitled for the benefit of Section 25-F of the Act.

Hon'ble Apex Court in the case of ***Pradeep Versus Maganese ore (India) Ltd. & others reported in (2022) 3 SCC 683*** after taking into consideration the provisions of Section 106 of Evidence Act held that burden lies on a person who wants to get the benefit of a particular thing on the basis of facts of the case.

In the case of **Ranger Forest Officer Vs. S.T. Hadimani AIR 2002 Supreme Court (1147)** Hon'ble Supreme Court held that claimant has to lead evidence and proof the fact he worked for 240 days in the last preceding years prior to retrenchment/termination of his service.

Reverting to the facts of the present case the position which emerged out that workman was initially appointed as causal labour on 19.05.1999 on daily wages and in the said capacity he works up till 3.7.2021 when the service were retrenched/terminated.

Further as per the own case of workman Sri Ram Bahadur Verma no written on order sheet was passed by which he was appointment/engagement in the BSNL Department but was a casual employee.

Moreover from the material of record the position which emerged out that workman has not filed any document/material on record on the basis of which it can be established/prove that he continuously worked and discharged in duties for 240 days in the last preceding 12 month prior to retrenchment/termination of the service on 03.7.2021

Further as per the own document filed by the claimant himself which is paid 46 and 47of the list of the document/evidence filed in support of the claim statement on behalf of the claimant (C4) which is letter dated 18.10.2002 written by Sri Vivek Chand relevant portion of the same quoted herein below Mandiliya Abhyanta reads as under:-

> *सविनय निवेदन है कि आपके द्वारा प्राप्त पत्रांक सं. सीएटी–5 जीडीए/2001/12 दिनांक 3.10.2001 के संदर्भ में यह सूचित करना है कि श्री राम बहादुर वर्मा द्वारा दी गयी माह जुलाई 200 सिंतबर 99 की कार्यसूची जो हमारे द्वारा जांच की गयी है वह सत्य है क्योंकि AO (IR) ,वं SS (IR) उनका भुगतान करने से पूर्व यह सुनि ि चित करना चाहते थे कितने दिन उन्होने काम किया है अतः श्री वर्मा एक सावे पन्ने पर स्वयं ही उस माह के कार्य को लिखकर हमसे जांच करवाते थे उसके पश्चात ही SS (ID) उनका भुगतान करते थे इसलिये AE (IR) एवं (IR) के निर्देशानुसार ही प्रार्थी ने ऐसा क और ऐसा प्रार्थी के TRA भुगतान में आने से पूर्व से ही हो रहा था दूसरा प्रार्थी को कभी सबलेजर प्राभारी पद पर नियुक्ति नहीं हुई और न हीं प्रार्थी ने कभी सब लेजर प्रभारी के रूप में किसी कार्य को सत्यापन हीं किया है कार्य सूची में जो प्रभारी सब लेजर की जो मोहर लगी है वह जांच में जालजासी करके बनवाकर लगाई गयी है प्रार्थी को उससे कोई लेना देना नहीं है।*

And the letter dated 18/10/2001 filed by workman, relevant portion of the same reads as under:-

> *अतः AO (IR) एवं (IR) के निर्देशानुसार ही प्रार्थी ने इनके कार्य को प्रभावित किया और इसके साथ हीं साथ प्रार्थी ने जब यह भी जानकारी कर ली कि प्रार्थी के ज्त। सब लेजर अनुभाग में आने से पूर्व से ही इसी प्रकार से किये गये कार्य को प्रभावित किया जा रहा है तभी प्रार्थी ने इनका कार्य प्रभावित किया। प्रार्थी सब लेजर अनुभाग में एक सहायक के पद पर कार्यरत था प्रार्थी की सब लेजर प्रभारी पद पर तो कोई नियुक्ति नहीं हुई थी और श्री राम बहादुर वर्मा के कार्य की सत्यापन की सूची में प्रभारी सब लेजर अनुभाग की जो मोहर लगी है वह निरर्थक है प्रार्थी का उससे कोई सम्बंध नहीं है ना ही प्रार्थी के समय इस प्रकार की मोहर सब लेजर अनुभाग में भी प्रार्थी को सम्पूर्ण बयान सच के साथ आपके समक्ष प्रेषित है।*

And as well as from the cross-examination of claimant/ Sri Ram Bahadur Verma on his affidavit filed in support of his case (W3) relevant portion of the same reads as under:-

> DMT *ने मुझे कोई लिखित आदेश नहीं दिया था उन्होने लेखा अधिकारी श्री शिव कुमार को निर्देश दिया था कि वह मुझसे काम ली कैजुवल लेबर की भर्ती के लिए दूर संचार जिला प्रबन्धक अधिकृत थे (श्रीमिक के प्रतिनिधी द्वारा इस पर आपित्त की गयी)*
>
> *मै सबलेजर बनाता था डाकघर और तार घर में जो वाउचर्स जमा होते थे उसकी सेरिंग करता था टेलीफोन विल बनाता जी पी एफ कार्ड बनाता था कम्पूटर खराब होने पर हाथ से विल टेलीफोन के बनाये जाते थे मै बनाता था। जी पी एफ कार्ड जो मै बनाता था उसकी फोटो कापी प्रस्तुत की है। जो भी मै काम करता था उस पर सेक्सन सुपर वाइजरा का कान्टर साइन होतो था/ जो हम डेली काम करते थे उसको इन्चार्ज के द्वारा वेरी फाई किया जाता था। श्री विवके चन्द, श्रीम मो0 इबराहिम सब लेजर के इन्चार्ज थे।*
>
> *अब मुझे रेगुलर नहीं किया गया तो मैने* CAT *में मुकादमा दाखिल किया तब उस की नोटिस विभाग को पहुंची तो मुझे हटा दिया गया। मुझे 3.7.2001 से हटा दिया गया। उस समय जब मै हटाया गया तो ठैछस- होने वाला था।*

It is clearly borne out that claimant is not able to prove/establish by way of cogent evidence that he has completed 240 days in the last 12 month preceding to retrench/termination order dated 3.7.2021, thus claimant is not entitled to get any benefit under the provision of section 25(f) of the Act.

ORDER

For the foregoing reasons appellant is not entitled for any relief in the present case as is not able to prove and establish by way of any pleadings/cogent evidence i.e. he completed 240 days in the last preceding years prior to date of his retrenchment dated 03.07.2021 by the District Manager, Telecom, Bharat Sanchar Nigam Ltd. Gonda.

Reference dated 25.4.2007 is answered accordingly.

Award as above.

Lucknow.

Date 30.7.2024

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1930.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **प्रबंध निदेशक, स्कूटर्स इंडिया लिमिटेड, सरोजिनी नगर, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री उमेश कुमार सिंह,कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **16 of 2012**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.10.2024 को प्राप्त हुआ था।

[सं. एल–40011/131/2011-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 10th October, 2024

S.O. 1930.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16 of 2012) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Scooters India Ltd.,Sarojini Nagar, Lucknow, and Shri Umesh Kumar Singh, Worker,** which was received along with soft copy of the award by the Central Government on 10.10.2024.

[No. L-42011/131/2011–IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No.16 of 2012

Ref. No. L-42011/131/2011-IR(DU) dated: 04.01.2012

BETWEEN

Shri Umesh Kumar Singh S/o Shri L.L. Yadav House NO. 4697, Village- Bhawankhera, Jaitikhera, Lucknow (UP) Inter College, Alambagh, Lucknow -

AND

The Managing Director, Scooters India Ltd.,

Sarojini Nagar, Lucknow.

AWARD

Sri V.K. Jaiswal - Counsel for the Applicant/Workman

Sri A.K. Singh & Sri Sharad Shukla- Counsel for the Respondent

On 04.01.2012 appropriate government by order no.L-42011/131/2011-IR (DU) has referred the following dispute to this Tribunal and accordingly the I.D. Case No. 16 of 2012 (Umesh Kumar Singh M/s. Scooter India Ltd.) was

registered;:-

"Whether the action of the management of Scooter India Ltd., Lucknow in not giving compassionate appointment to Smt. Asha Verma, wife of deceased workman Late Sh. Radhekrishna Verma and not considering the application of workman dated 29/11 / 1993 and voluntarily retiring him w.e.f. 11/01/1994 without paying entire pensionery benefits is legal justified? what relief the applicant is entitled to?"

However, on expiry of workman, name of his legal heir i.e. his wife Kesh Kali Yadav as substituted vide this Tribunal's order dated 03.08.2017.

Case of claimant:

On 26.3.2012 on behalf of workman, Statement of Claim filed stating therein the following averments :-

a) The applicant was appointed as semi skilled worker under the opposite party/employer on 20.12.1977 being fully eligible for the post and his Service No. is 4697 and he was initially granted Grade 'E'. The applicant/workman started performing his work and duties with all satisfaction of his all concerned.

b) All of sudden in the year 1993 a rumors was flown away in the campus of company that Manager of the respondent is saying that the company is going to be windup within a very short period due to heavy financial loss and as such employees may take his all service benefits as soon as possible from the company otherwise company will not responsible for the same. Those employees who will seek his voluntary retirement under the announced voluntary retirement scheme, they will call back in job/service on requirement of work on seniority basis.

c) The applicant believing rumor on 26.11.1993 applied for his voluntary retirement with effect from 31.03.1994 under the voluntary retirement scheme dated 8.12.1988.

d) A circular dated 6.11.1993 was also circulated by the respondent stating therein that the voluntary retirement scheme circulated vide circular dated 8.12.1988 will remain suspended with effect from 1.12.1993.

e) The applicant immediately on 28.11.1993 moved an application for withdrawing his voluntary retirement, which was sought by him with effect from 31.03.1994, then he came to know that his voluntary retirement has already been accepted by the management of opposite party on the same date i.e. on which he moved an application on 26.11.1993.

f) The management was fully aware with all things but voluntary retirement of the applicant was accepted knowingly and with mal intention on the same date when the applicant submitted his VRS application i.e. on 26.11.1993 only to oust him from the job, therefore the action of the respondent is quite bad in law and unjust.

g) The applicant applied for voluntary retirement on 26.11.1993 w.e.f. 31.03.1994 but his voluntary retirement was accepted by the respondent on the same date when he moved his application on 26.11.1993. The management is well known that the VRS circulated vide letter dated 8.12.1988 will remain suspended w.e.f. 1.12.1993, therefore, action of the respondent in accepting his VRS w.e.f. 26.11.1993 instead of 31.03.1994 is fully illegal, arbitrary and unjust.

h) If the applicant's voluntary retirement was not accepted w.e.f. 26.11.1993 i.e. on the date when he moved his application for VRS, his application would be cancelled or rejected by the management of the respondent as he submitted another application dated 28.11.1993 for withdrawing his voluntary retirement and thus he would remain in job till attaining his retirement age from the job. In view of this the respondent may be directed to pay entire salary and other service benefits to the applicant from the date of his relieve till the date of his retirement.

i) It is provided in the standing orders of the company that the pay will be revised on each 5 years of employees which has not been done in the matter of the applicant before accepting his VRS. The company is quietly running till date, therefore his voluntary retirement deserves to be quashed and the respondent be directed to reinstate the applicant on the post with full salary benefits from the date of relieve from the job till his date of retirement from the post and pay his entire due salary with 12% interest to the applicant.

Case of respondent:

On 25.07.2012 the written statement filed on behalf of the respondent M/s. Scooters India Limited taking the following **preliminary objections** :-

a) The matter of dispute does not constitute a valid industrial dispute, as the dispute has not been transformed into an industrial dispute within the meaning of the terms as defined in Industrial Disputes Act 1947.

b) The Central Government has not taken facts in cognizance while making a reference to the Tribunal. The reference is not based on the pleadings of the parties advanced at the conciliation stage, especially the submissions of the respondent before the Conciliation Officer/Government have been completely ignored, while making the reference for adjudication. No cause of action arose on the date as mentioned in reference order as such also on his ground alone, the reference order is bad in the eyes of law.

c) The Industrial Disputes Act 1947 has been amended vide Industrial Disputes (Amendment) Act, 2010 (Act No.24 of 2010) and period of limitation has been provided by virtue of Section 2A(3), which is quoted as below:-

> *"2A(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1)"*

d) A period of limitation has been provided i.e. three years from the alleged date of termination of services, but the instant case has arisen after a period of 18 years which is liable to the dismissed on the ground of limitation alone.

e) Even otherwise, the applicant has not raised industrial dispute within reasonable time. The applicant has raised an industrial dispute regarding his acceptance of Voluntary Retirement very belatedly i.e. after elapse of more than about 18 years. It is trite law as held by the Apex Court that the dispute must be raised within reasonable period of time from the cause of action and where the industrial dispute is not raised within reasonable period of time the Labour Court or Industrial Tribunal should decline to grant any interim relief to the workman.

f) The Apex Court in the case of Nedungadi Bank Ltd. Versus K.P. Madhavankutty & others : 2000(84) FLR 673 SC, S.M. Niljakar Vs. Telecom District Manager, Karnataka:2003(97) FLR 608 SC, Manager R.B.I. Vs. Gopinath Sharma : 2006 FLR (110) FLR 803 SC has already held that the dispute must be raised within reasonable period of time from the cause of action and a dispute which is state could not be subject matter of reference.

g) The present reference is highly belated, inasmuch as it is made after more than eighteen years from the alleged date of cause of action. The instant delay caused prejudice to the respondent since the management not presumed to preserve the relevant record for such a long period.

h) It is settled law of the land that the person who is approaching this Tribunal should come with clean hand but in the instant matter, the applicant has concealed the actual material facts which are very necessary for the purposes of the adjudication of present matter of dispute, if any, as such also the reference is not maintainable before this Tribunal and accordingly deserves to be rejected.

i) Earlier the applicant had raised an industrial dispute under the provisions of Section 2A of the U.P. Industrial Disputes Act before the validly appointed conciliation officer. The conciliation officer on its turn called upon the parties for hearing and after conducting the necessary proceedings, the aforementioned application had been rejected by the competent authority.

j) The applicant preferred a Writ Petition No. 2620 (SS) of 1999 (Rajendra Singh & another Vs. Scooters India Limited & others) along with some other ex-employees of the Company before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the order passed by the competent authority and the Hon'ble High Court had been pleased to dismiss the aforesaid writ petition including bunch of writ petitions bearing W.P.No.2146 (SS) of 2000, W.P.No.6654 (SS) of 1999, W.P. No.2620 (SS) of 2000, W.P. No.1625 (SS) of 2000, W.P. No.1745 (SS) of 2000, W.P. No.1644 (SS) of 2000, W.P. No.1635 (SS) of 2000 & W.P. No.1624 (SS) of 2000 vide judgment and order dated 8.2.2006 after holding that there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. Further the Hon'ble Court has held that the Conciliation Officer, in these circumstances for sufficient reasons disallowed the application of the petitioners.

k) A Review Petition No.76 of 2006 was also filed by the applicant which has also been dismissed by the Hon'ble High Court, Lucknow Bench, Lucknow vide its judgment and order dated 13.5.2008. Thus it is clear that the matter has already been adjudicated upon by the competent court of law and these facts have not been disclosed by the applicant in their written statement, which amounts to concealment of facts and the instant application is liable to be dismissed on this ground alone.

l) An identical situated employee had also preferred a Writ Petition No.1165(SS) of 1994:Jagdish Chandra Nigam Versus M/s. Scooters India Limited before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the action of the management in accepting the application for voluntary retirement, which has been dismissed by means of detail judgment and order dated 9.1.1997.

m) Being aggrieved from the aforesaid judgment and order dated 9.1.1997, Special Appeal No.48 (SB) of 1997 was preferred before the Division Bench of the Hon'ble High Court, Lucknow Bench, Lucknow and after conducting the necessary proceedings, the Hon'ble Division Bench of the Hon'ble High Court decided the said special appeal by means of judgment and order dated 18.12.2000 and set aside the judgment and order passed by the Single Judge to the extent that in case of the appellant/petitioner deposits the entire amount which he has received through cheque dated 12.3.1994 alongwith interest at the rate of 12% with respondent company as well as other benefits which might have been given to the appellant within four weeks from the production of certified copy of the order, the appellant will be reinstated in service.

n) The management preferred Special Leave Petition challenging the judgment and order dated 18.12.2000 before the Hon'ble Supreme Court of India, which was letter on converted into Civil Appeal No.1089 of 2004:M/s. Scooters India Limtied & others Vs. Jagdish Chandra Nigam which was allowed by means of the judgment and order dated 12.2.2004 and the judgment and order dated 18.12.2000 rendered by the Division Bench of the High Court, Lucknow Bench, Lucknow has been set aside.

o) Being aggrieved from the judgment and order dated 12.2.2004, Sri Jagdish Chandra Nigam had preferred a Review Petition No.747 of 2004: J.C. Nigam Vs. M/s. Scooters India Limited, which has also been dismissed by the Hon'ble Supreme Court of India vide its judgment and order dated 28.4.2004. Sri Nigam also preferred a Curative Petition No.152 of 2008 and the same has also been dismissed by the Constitution Bench of Hon'ble Supreme Court vide its judgment and order dated 21.1.2009. Thus it is crystal clear that the matter in dispute has already been decided by the competent court of law and now nothing remains to be adjudicated upon by this Tribunal.

p) It is crystal clear that the principles of res-judicata applies into the matter and accordingly the reference is liable to be rejected, out rightly without going into the merit of the case.

Accordingly, it has been prayed by respondent that the present industrial dispute may be dismissed being devoid of any merit.

Thereafter documents, evidences etc. had been exchanged between the parties. Sri Sharad Kumar Shukla, Learned Counsel for the respondent submits that the preliminary objections taken by them may be considered first and thereafter the matter be heard on merits.

Finding & conclusion on the Preliminary Objections:

I have heard Sri V.K. Jaiswal, learned counsel for claimant and Sri Sharad Kumar Shukla and Sri A.K. Singh, learned counsel for the respondent.

It is not in dispute between the parties that Umesh Kumar Singh-applicant/workman was appointed as semi skilled worker in establishment known as Scooter India Limited on 20.12.1977, Grade-E having service No. 4697. Scooter India Limited floated a scheme known as Voluntary Retirement (hereinafter referred to as 'VRS').

On 26.11.1993 applicant submitted an application for opting VRS and the same was accepted by the respondent on 26.11.1993 and his date of release under the said scheme was notified as 31.11.1993 and consequently applicant was voluntary retired from service under the Scheme with all consequential benefits and the same were received by him.

Meanwhile on 6.11.1993 a circular was issued which reads as under:-

> "*Sub: Voluntary Retirement Scheme – suspension thereof*
>
> *The Voluntary retirement scheme circulated vide circular no.SIL/PER/NC-63/88 dated 8.12.88 for the employees of the Company will remain suspended w.e.f.1.12.1993*."

So a letter/representation dated 28.11.1993, submitted by applicant for withdrawal/rejection of his application dated 26.11.1993 for voluntary retirement from services on the ground mentioned therein.

From the material on record the position which emerges out that initially aggrieved by the action of the respondent thereby not considering application of the workman/applicant dated 28.11.1993 for rejecting/withdrawing acceptance of voluntary retirement by him under the scheme known as Voluntary Retirement Scheme, he raised a industrial dispute under Section 2-A of Industrial Disputes Act which rejected by the Conciliation Officer.

Aggrieved by the said facts, the workman/applicant along with other similarly situated employees filed a Writ Petition no. 2620 (SS) of 2000 (Rajendra Singh & others Versus M/s. Scooter India Limited & others).

The said writ petition was heard by the Hon'ble High Court along with leading Writ Petition No.2146 (SS) of 2000 (S.V. Jaiswal Versus M/s. Scooter India Limited & others).

By means of order dated 8.2.2006 the Hon'ble High Court dismissed the Writ Petition No.2146 (SS) of 2000 along

with other connected writ petitions including the Writ Petition No. 2620 (SS) of 2000, the relevant portion, quoted below:-

> "*The question whether voluntary retirement would come under the definition of retrenchment or compulsory retirement or not, was considered in a number of cases which have been relied upon by the learned counsel appearing on behalf of the opposite party, one main of them has been reported in 1997(2), UPLBEC 1262, Jagdish Chand Nigam Vs. Scooter India Limited.*
>
> *In similar circumstances, the petitioners had taken voluntary retirement. The Bench of this court observed that the petitioner had occupied offer of his premature retirement, in order to receive the compensation, for the last tenure of service offered by the respondents. The offer made by the employers was accepted by the employees. The benefits provided by the respondents under this scheme were accepted by the petitioner. Since the workman had accepted the scheme and himself had opted to retire under this scheme, he cannot be allowed to approbate or reprobate. In the present case of the petitioner, the employees had accepted all benefits under the Voluntary Retirement Scheme, so they cannot retract from the obligations and exercise their right, integrally connected with the performance of the obligations under the Voluntary Retirement Scheme.*
>
> *In view of the above facts and in view of the principles of law laid down in the above noted case and after accepting offer of huge incentive, they now cannot withdraw their resignation and if their services had come to an end on account of it, they cannot be allowed to raise it in this manner as their grievance. The Hon'ble Apex Court in Special Leave Petition affirmed this judgment. The same principles were laid down by the Hon'ble Apex Court in another case reported in 2004(100) FLR 648, Punjab National Bank Vs. Virendra Kumar Goel and others and AIR 2003 SC 858, Bank of India with other banks Vs. Virendra Kumar Goel and others, wherein it was laid down that retirement was to take effect only after the request was accepted. Such scheme is only an intimation to offer which can be withdrawn before it is accepted contractual bar created under the scheme to withdraw the request once made by employees cannot be made.*
>
> *In the present case there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. The Conciliation Officer, in these circumstances for sufficient reasons allowed the application of the petitioners.*
>
> *I find no merit in these writ petitions. They are fit to be dismissed and are accordingly dismissed with costs*."

Against order dated 8.2.2006 Sri Rajendra Singh & others filed a Review Petition No.76 of 2006 (Rajendra Singh & others Vs. M/s. Scooter India Limited & others) which too was dismissed by means of order dated 13.5.2008 which is quoted below:-

> "*There appears no error apparent at the face of record. The review petition is dismissed. No order as to costs.*"

However, above said facts have been concealed by applicant while filing the present I.D. Case with oblique motive and purpose.

As such, it is rightly submitted on behalf of respondent that present case on the same relief in respect to which earlier claimant's case u/s 2A of the Act was rejected, is barred by the principle of res-judicata.

Further, one Sri Jagdish Chandra Nigam whose case was identical to the case of claimant, filed a Special Appeal No.48 (SB) of 1997, allowed by means of judgment and order dated 18.12.2000 (reported in 2000CJ(All) 309), the relevant portion, quoted below:-

> *"18. The appeal is allowed. The judgment and order passed by the Hon'ble the single Judge is set aside to the extent, the observations made in the foregoing paragraph of this judgment. But we provide that in case the appellant deposits the entire amount which he has received through cheque dated March 12, 1994 alongwith interest at the rate of 12% with Scooters India Limited, as well as other benefits which might have been given to the appellant within four weeks from the date of production of the certified copy of this order, the appellant will be reinstated in service. But considering the facts and circumstances of the case, we further provide that the appellant will not be entitled for payment of back wages.*
>
> *19. As far as the case of the petitioners of other writ petitions are concerned, the fact of those writ petitioners are not exactly identical to the facts which have been indicated in the present Special Appeal. But as this Court has decided the present Special Appeal more or less on same propositions of law although the fact might be different, we heard the arguments of the learned counsel for the parties in all the writ petitions alongwith special appeal, which are connected with this special appeal as well.*
>
> *20. As we have already indicated that those employees who withdrew their application for voluntary retirement before the prospective date mentioned in the original application for voluntary retirement, shall*

he entitled for the relief. But those persons, who have not withdrawn their voluntary retirement before the prospective date, would not be entitled for any relief.

21. We further provide that those petitioners, who opted for the Voluntary Retirement Scheme from a prospective date and withdrew their resignations before the said prospective date, but were, relieved by the management of the Scooters India Ltd. would be entitled to the relief as Jagdish Chandra Nigam has been provided, provided they filed the writ petitions within one month from the date of the relieving orders. If they had filed the writ petition after one month from the date of relieving orders, they would not be entitled for any relief.

22. With the aforesaid observations, the Special Appeal as well as all the writ petitions are disposed of."

Judgment/order dated 18.12.2000 challenged by way of filing a S.L.P. having Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) along with other S.L.P.s which were connected. In the above noted S.L.P. an order dated 12.2.2004 was passed by the Hon'ble Supreme Court which reads as under:-

"*Leave Granted.*

For the reasons stated in our order passed today in C.A. No.4098/2002, this appeal is allowed.

The order and judgment under challenge is set aside. There shall be no order as to costs."

Thus, as per the order passed by the Hon'ble Supreme Court, the S.L.P. filed by M/s. Scooters India Limited was allowed and judgment and order passed in the case of Special Appeal filed by Sri Jagdish Chandra Nigam was set aside/S.L.P. filed by Sri Jagdish Chandra Nigam was dismissed.

Moreover order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) based upon order dated 12.2.2004 passed by the Hon'ble Supreme Court in C.A. No.4098 of 2002 (Bank of India & others Vs. Pale Ram Dhania), reproduced below:-

"1. It is not disputed that the appellant Bank introduced a Voluntary Retirement Scheme, 2000 (herein referred to as "the Scheme") for its employees which had the approval of its Board of Directors. The Scheme was operative w.e.f. November 15, 2000 to December 14, 2000 for the employees who sought voluntary retirement. It is not disputed that the respondent herein who was an employee of the appellant Bank sought voluntary retirement under the Scheme on November 30, 2000. It is also not disputed that on December 2, 2000 he wrote to the Bank for withdrawal of his application for voluntary retirement. On January 22, 2001, the appellant Bank accepted the request for voluntary retirement of the respondent. Further, on January 25, 2001, the respondent withdrew the retiral benefits deposited in the Bank in his name as per voluntary retirement. It appears that the respondent changed his mind after the respondent was relieved from the employment and he filed a petition under Article 226 of the Constitution challenging the acceptance of his request for voluntary retirement. A learned Single Judge of the High Court allowed the petition and set aside the acceptance of the application for voluntary retirement submitted by the respondent. Aggrieved, the appellants preferred a letters patent appeal which was dismissed. It is against the said judgment, the appellants are in appeal before us.

2. A Bench of three Judges of this Court in Punjab National Bank v. Virender Kumar Goel , has held that an employee who sought voluntary retirement and subsequently wrote for its withdrawal but has withdrawn the amount of retiral benefits as per the Voluntary Retirement Scheme, is not entitled to the withdrawal of his application for voluntary retirement. It is not disputed that in the present case the respondent herein withdrew the amount of retiral benefits on January 25, 2001.

3. For the aforesaid reason, this appeal deserves to be allowed. We order accordingly. The order and judgment under challenge is set aside. There shall be no order as to costs".

In Review Petition (Civil) No.53 of 2003 arising out of Appeal (Civil) No.896 of 2002 (Punjab National Bank Versus Virender Kumar Goel & others), the Hon'ble Supreme Court on 21.1.2004 passed an order. The relevant of order dated 21.1.2004 reads as under:-

"I.A.NOS. 1-22

These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that the State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of the State Bank of India. The VRS scheme floated by the State Bank of Patiala is in para-materia with the scheme floated by the State Bank of India. This Court in the judgment dated 17.12.2002 allowed the appeals filed by the State Bank of India but nothing has been said about the appeals filed by the State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J) was a member, considered the same question in Civil Appeal No. 2341 of 2003 arising out of Special Leave Petition No.

23530 of 2002 entitled State Bank of Patiala Vs. Jagga Singh, disposed of on 13.3.2003, where this Court after considering Clause 8 of the scheme floated by the State Bank of Patiala and Clause 7 of the scheme floated by the State Bank of India, had held that the scheme floated by the State Bank of Patiala is almost identical of the scheme floated by the State Bank of India. Accordingly, the appeal filed by the State Bank of Patiala was allowed. Review Petition was also dismissed on 3.12.2003. In view thereof, we clarify that our direction No.2, allowing the appeals filed by the State Bank of India, would also include the appeals filed by the State Bank of Patiala. In other words, the appeals filed by the State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002. I.A.NOS. 14-15 I.A.No.14 has been filed by an employee of the bank sought to clarify/modify our order dated 17.12.2002. In this case, admittedly, the benefit of the scheme had been withdrawn by the applicant on 27.2.2001. The applicant had clearly admitted, in ground E of the application, withdrawal of the amount so credited in his account, albeit compelling financial constraints.

I.A.No.15 has been filed by an employee of the bank for clarification/modification of our order dated 17.12.2002. In para 6 of the application, the applicant admitted that he had withdrawn and utilised the benefit of the scheme credited in his account.

As noticed in our judgment, having accepted the benefit under the scheme by withdrawing and utilisation thereof they are not permitted to approbate and reprobate."

Moreover Sri J.C. Nigam filed a Review Petition (Civil) No.747 of 2004 in C.A. No.1089 of 2004 (J.C. Nigam Versus M/s. Scooter India Limited & others) before the Hon'ble Supreme Court in which the following order dated 28.4.2004 passed:-

"*We do not filed any merit in the review petition and the same is accordingly dismissed*."

Thereafter, Sri J.C. Nigam filed a Curative Petition No.152 of 2008 against order dated 28.4.2004 passed in Review Petition (Civil) No.747 of 2004 which was dismissed by an order dated 20.1.2009, quoted below:-

"*We have perused the petition and the connected papers. In our view, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr. 2002(4) SCC 388. Hence, the Curative Petition is dismissed*."

In addition to the above said facts, Hon'ble the Apex Court in the constitution bench in the case of ***Rupa Ashok Hurra Versus Ashok Hurra & Anr, reported in 2002(4) SCC 388*** held as under:-

"Incidentally, this Court stands out to be an avenue for redressal of grievance not only in its revisional jurisdiction as conferred by the Constitution but as a platform and forum for every grievance in the country and it is on this context Mr.Shanti Bhushan, appearing in support of the some of the petitioners, submitted that the Supreme Court in its journey for over 50 years has been able to obtain the confidence of the people of the country, whenever the same is required be it the atrocities of the police or a public grievance pertaining to a governmental action involving multitudes of problems. It is the Supreme Court, Mr. Shanti Bhushan contended, where the people feel confident that justice is above all and would be able to obtain justice in its true form and sphere and this is beyond all controversies. It has been contended that finality of the proceeding after an Order of the Supreme Court, there should be, but that does not preclude or said to preclude this Court from going into the factum of the petition for gross injustice caused by an Order of the Supreme Court itself under the inherent power being an authority to correct its errors any other view should not and ought not be allowed to be continued. Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to maintainable. Reference maybe made in this context to a decision of this Court in the case of J.Ranga Swamy v. Govt. of A.P. & Ors. (AIR 1990 SC 535), wherein this Court in paragraph 3 stated as below :-

"We are clearly of the opinion that these applications are not maintainable. The petitioner, who appeared in person, referred to the judgment in Antulay's case (1988) 2 SCC 602 : (AIR 1988 SC 1531). We are, however, of the opinion that the principle of that case is not applicable here. All the points which the petitioner urged regarding the constitutionality of the Government orders in question as well as the appointment of respondent instead of petitioner to the post in question had been urged before the Bench, which heard the civil appeal and writ petitions originally. The petitioner himself stated that he was heard by the Bench at some length. It is, therefore, clear that the matters were disposed of after a consideration of all the points urged by the petitioner and the mere fact that the order does not discuss the contentions or give reasons cannot entitle the petitioner to have what is virtually a second review."

True, due regard shall have to have as regards opinion of the Court in Ranga Swamy (supra), but the situation presently centres round that in the event of there being any manifest injustice would the doctrine of ex debito justitiae be said to be having a role to play in sheer passivity or to rise above the ordinary heights as it preaches that justice is above all. The second alternative seems to be in consonance with time and present phase of socio-economic conditions of the society. Manifest justice is curable in nature rather than

incurable and this court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an Order stands out to create manifest injustice, would the same be allowed to remain in silenco so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem. Mr.Attorney General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but on the same breath submitted that the Court ought to be careful enough to trade on the path, otherwise the same will open up Pandora's box and thus, if at all, in rarest of the rare cases the further scrutiny may be made. While it is true that law courts has overburdened itself with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the event of any further appraisal of the matter by this Court, it would brook on further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserve such an additional appraisal The note of caution sounded by Mr. Attorney as regards opening up of pandora's box strictly speaking, however, though may be of very practical in nature but the same apparently does not seem to go well with the concept of justice as adumbrated in our constitution. True it is, that practicability of the situation needs a serious consideration more so when this Court could do without it for more than 50 years, which by no stretch of imagination can be said to be a period not so short. I feel it necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice in stricto. In the event there is any affectation of such an administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system technicality ought not to out-weigh the course of justice the same being the true effect of the doctrine of ex debito justitiae. The oft quoted statement of law of Lord Hewart, CJ in R v. Susssex Justices, ex p McCarthy (1924 (1) KB 256) that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seem to be done had this doctrine underlined and administered therein. In this context, the decision of the House of Lords in R v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.2) seem to be an ipoc making decision, wherein public confidence on the judiciary is said to be the basic criteria of the justice delivery system any act or action even if it a passive one, if erodes or even likely to erode the ethics of judiciary, matter needs a further look. Brother Quadri has taken very great pains to formulate the steps to be taken and the methodology therefor, in the event of there being an infraction of the concept of justice, as such further dilation would be an unnecessary exercise which I wish to avoid since I have already recorded my concurrence therewith excepting, however, lastly that curative petitions ought to be treated as a rarity rather than regular and the appreciation of the Court shall have to be upon proper circumspection having regard to the three basic features of our justice delivery system to wit, the order being in contravention of the doctrine of natural justice or without jurisdiction or in the event of there is even a likelihood of public confidence being shaken by reason of the association or closeness of a judge with the subject matter in dispute. In my view, it is now time that procedural justice system should give way to the conceptual justice system and efforts of the law Court ought to be so directed. Gone are the days where implementation of draconian system of law or interpretation thereof were insisted upon - Flexibility of the law Courts presently are its greatest virtue and as such justice oriented approach is the need of the day to strive and forge ahead in the 21st century."

Thus, from the above said facts and the material on record, as the present industrial dispute stands on the same footing as of Sri Jagdish Chandra Nigam, so in view of the judgment passed Hon'ble Supreme Court in the case of Sri Jagdish Chandra Nigam thereafter in Review Petition and Curative Petition, by him which were also dismissed.

Accordingly, preliminary objection taken by learned counsel for respondent are allowed and claim petition filed by claimant liable to be dismissed.

ORDER

For the foregoing reasons the present industrial dispute is dismissed, workman is not entitled for any relief; and the reference is answered accordingly.

Lucknow.

21st June, 2024

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1931.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट** बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (232/2014) प्रकाि ात करती है।

[सं. एल–12011/74/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 232/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/74/2014– IR (B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 232/2014

Between:

The General Secretary,
All India Safai Amador Congress,
1382, Panajabgada,
Ramavaram-507118,
Kothagudem,

..... .Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/74/2014 (IR(B-I)) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Ramachandrapuram Branch of East Godavari District Andra Pradesh in terminating the service of Smt. G. Ravulamma, part/full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 232/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1932.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **उप रजिस्ट्रार, क्षेत्रीय रेशम उत्पादन अनुसंधान केंद्र, देहरादून,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री रविन्द्र कुमार, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **44/2015**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.10.2024 को प्राप्त हुआ था।

[सं. एल–42012/78/2015-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 10th October, 2024

S.O. 1932.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2015) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Deputy Registrar, Regional Sericulture Research Station, Dehradun, and Shri Ravindra Kumar, Worker,** which was received along with soft copy of the award by the Central Government on 10.10.2024.

[No. L-42012/78/2015– IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 44/2015

Ref. No. L-42012/78/2015 (IR(DU) Dated 05.05.2015

Ravindra Kumar Vs The Deputy Registrar

BETWEEN

Sri Ravindra Kumar

Village-Ogal, PO- Clement Town,

Dehradun …… … **Applicant**

AND

The Deputy Registrar

Regional Sericulture Research Station,

Dehradun- 248001

…… .. Opp. Party

AWARD

By letter/order dated 05.05.2015 the following reference has been referred to this Tribunal for adjudication.

"*Whether the workman Sri Ravindra Kumar is entitled for seniority and continuity in service from the date of joining as per order of Hon'ble High Court? If yes than what relief he will get?.*

Accordingly I.D. Case No. 44/2015 registered before this Tribunal.

Case of appellant

Learned counsel for workman Ravindra Kumar Sharma submits that he was initially appointed as skilled labour on 12.03.1987 in the Regional Sericultural Research Station Central Silk Board, Dehradun, (WNKG), work in the said capacity till 6.11.1987 however his services were retrenched on 07.11.1987.

Aggrieved by action of retrenchment/termination of service workman raised an Industrial Dispute.

Accordingly by reference dated 24.05.1989 following dispute referred to the Central Government Industrial Tribunal cum labour court, Kanpur quoted herein below:-

"Whether the action of the management of Regional Sericulture Research Station Central Silk Board Dehradun in termination the service of Sri Ravindra Kumar Sharma S/o Mukund Lal Sharma casual labour w.e.f. 7.11.87 is legal and justified if not, to what relief the workman is entitled to?".

And I.D. case No. 129/1989 Sri Ravindra Kumar Sharma Vs The Deputy Registrar Regional Sericulture Research Station, Dehradun registered before the Central Government Industrial Tribunal cum labour Court Kanpur.

In the said I.D. case No. 129/1989, on 30th May 1995 an award passed relevant portion quoted herein below:-

Point No. 4.

The concerned workman in his affidavit have sworn that w.e.f. 7.11.87 he has denied for work. On the other hand Dr. J.P. Gaur has stated that the concerned workman had himself stayed away from the work. It will be relevant to refer to Bxt.W.I letter dated 9.11.87 which was sent by the concerned workman to the chairman of the employer ventilating his grievances regarding his termination. It was sent by magistrate post, no reply was sent. This alliance on the part of employer speaks in favour of the concerned workmen. Had there been not truth in this fact, the employer would have refute it sending a reply. Apart from this I am of the view that in these days of unemployment it is almost unlikely that the concerned workman himself would have stayed away from the work. Hence I believe the version of the concerned workman and believed the version of the employer and come to the conclusion that the concerned workman's service were orally terminated by the employer w.e.f. 7.11.87.

Point No. 5

As has been notice earlier the concerned workman has alleged in the written statement that he had completed for more than 240 days in a calendar year since 1983 to 1987. It was sworn on affidavit. The employer has filed extracts of muster rolls from November 1986 to November 1987, to show that except in the month of September and November 1987, the concerned workman has worked for 25 or more days in every month. Although Lr. J.P. Gaur has entered into witness box on behalf of management but his evidence is not proper to rebut the version of the concerned workman. The employer ought to have filed the statement of attendance/presence of the concerned workman since 1983 till October 1986 which has not been signed in its absence adverse inference should be drawn against the employer and in favour of the concerned workman. Thus from this evidence I came to the conclusion that the concerned workman has completed for more than 240 days in every calendar year, during the course of his employment.

Admittedly no notice and retrenchment compensation has been paid to him, hence his termination is violative of provisions of section 25(F) of the Industrial Dispute Act, 1947, and as such is illegal.

I do not find any substances in the objection of the concerned workman that the provisions of section 25(H) of I.D. Act have been violated as it has been argued by the employer that Madan Singh was not employed subsequently.

It has not been proved that after the termination of services of the concerned workman he has been gainful employed elsewhere. Thus he will be entitled for back wages.

In the end my award is that the termination of the services of the concerned workman was illegal and as such he is entitled for reinstatement. He will also be entitled for back wages. The workman shall also get Rs. 200/- from the employer as costs of the so.

Thereafter Regional Sericulture Research Station Central Silk Board Dehradun challenged award dated 30.05.1995 passed in ID case No. 129/1989 by filling writ petition No. 5576/1996 before the Hon'ble Allahabad High Court subsequently transferred to Hon'ble High Court of Uttranchal at Nainital writ petition no. 182 of 2001 (M/s) (Old No. 5576/1996) Regional Sericulture Research Station Central Silk Board Dehradun Vs. Presiding Officer Central Government Industrial Tribunal cum labour Court and others.

By means of judgment dated 29.07.2005 the Hon'ble High Court of Uttranchal at Nainital partly allowed the above said writ petition which reads as under:-

Hon'ble P.C.Verma, J.

This writ petition has been filed impugning the award dated 30.05.1995 made by the respondent, No.1/Central Government Industrial Tribunal-cum-Labonar Court, Kanpur in Industrial Dispute No.129 of 1989, contained in Annexure No.5 to the writ petition, holding the termination of respondent No.2/workman illegal and unjustified and directed the reinstatement of workman with back wages from the date of reference at the rate at which he was drawing at the time of termination.

2. *The Industrial Dispute decided by the impugned award was referred in the following terms:-*

"Whether the action of Management of Regional Sericultural Research Station, Central Silk Board, Dehradun in terminating the services of Sri Ravindra Kumar Sharma from 07.11.1987 is legal and justified? not, to what relief the workman is entitled?

Brief facts giving rise to the present that the workman, Ravindra Kumar appointed petition are as a skilled labour on 12.3.1983. He worked at this job upto 06.11.1987 and w.e.f 07.11.1987, his services were terminated without paying notice pay and retrenchment compensation. Since, he had completed more than 240 days in a calendar year, and this termination is violative of Sec. 25-F of the Industrial Disputes Act, 1947. The work on which the workman was engaged was of perennial nature His services were illegally dispensed, without any notice, notice pay and retrenchment compensation etc. as is obligatory under Sec. 25-F of the said Act. He was entitled to regularisation as per policy of the Government but the management terminated his services without observing prescribed procedures rendering termination order void-ab initio The workman claimed reinstatement with back wages.

The petitioner-management has denied that the concerned workman was a skilled labour. It was also alleged that he was a daily rated worker and the work was given to him as and when he came in the office. It was also contended that w.e.f. 07.11.1987, the workman had left the Job. The Opp.parties further contended that in any case the services of the workman were not terminated. On the other hand, the workman has established his case that he had worked from 1983 upto 07.11.1987 and during this period he had completed more than 240 days

5. *Upon hearing the parties counsel and after appreciating the evidence adduced by the parties the learned Tribunal rightly held that the workman was a casual labour and he fulfilled eligibility criteria of being regularized and further held that the action of the management cannot be justified in terminating the services of the workman. The learned tribunal rightly held the termination of the workman void-ab-initio and directed for his reinstatement with back wages from the date of reference at the rate which he was dawning at the time of terminatio*n.

6. *Learned Assistant Solicitor General for Union of India submitted that the award made by the learned Tribunal is correct on merit. The only dispute is regarding the payment of back wages. The back wages, in my opinion, is grossly excessive. Therefore, in the special facts and circumstances of the, I reduce the back wages to the tune of 50%.*

7. *Accordingly, the writ petition is partly allowed. The respondent no. 2/workman shall be paid only 50% (fifty percent) of back wages from the date of reference, if he comes to join the institution and serve the institution.*

Accordingly learned counsel for appellant submits that after passing of order dated 29.07.2005 by the Hon'ble High Court, appellant was allowed to join his duty on 16.09.2005 in this regard pleading is made in claim statement are as under:-

That in view of the above noted order dated 29.07.2005 I had joined the RSRS on 16.09.2005 and I was dictated an undertaking to be signed by me and to be presented before the Administrative Officer of RSRS Dehradun on 16.09.2005 in which the concerned Administrative Officer had compelled me to mention my post as casual farm labour

Further learned counsel for workman in view of the above said factual background and the case as pleaded by claimant in his claim petition argued as under:-

a. That now the dispute which the employer has arisen is that say that my appointment was fresh causal farm worker which begins from 16.09.2005 instead of the date of reference i.e. 24.05.1989 which is specifically mentioned in para 1 of the award of CGIT cum labour court Kanpur dated 30.05.1995.

b. That in para 6 of the judgment of the High Court of Nainital the learned Solicitor General (Assistant) has specifically mentioned that the award of the CGIT cum labour court Kanpur is correct on merit and the fact that award the reinstatement of me in service was mentioned first and then my entitlement of back wages was mentioned which clearly indicated that I was reinstated w.e.f. 7.11.1987 on the post which I held on 6.11.1987 i.e. casual worker and accordingly my back wages were also to be counted w.e.f. 07.11.1987 but the Hon'ble High Court of Uttranchal at Nainital had specifically mentioned in that judgment of writ petition NO. 182 of 2001 (M/s) (judgment dated 29.07.2005) that the back wages are to be paid by the employer from the date of reference i.e. 24.05.1989. Now accordingly all the financial and service promotion benefits were to be given to me from the date of reference i.e. 24.05.1989 and not from the date when on 16.09.2005 I rejoined the RSRS vie the above judgment and order o the Hon'ble High Court Uttranchal at Nainital dated 29.07.2005. My employer is continuously trying to curtail my service promotional benefits by wrongly interpreting my reinstatement in service which should be 24.05.1998 in accordance with the above order dated 29.07.2005 and in no case it should be 16.09.2005.

c. That vide circular of central Silk Board No. CSB 63(19)/92-ES (III) dated 15.10.1992 I was to be promoted as time scale labour with all benefits and accordingly my future promotions should have been granted to me which all have not been accepted by the employer till date. My back wages were also not calculated and given to me according to the above noted circular then causing me financial loss till date.

d. that while giving back wages the employer given back wages w.e.f. 24.05.1989 but regarding the date of reinstatement the employer takes it as on 16.09.2005 simply to cause me promotional and pensionary financial losses.

In view of the above said facts following prayer/relief, sought by claimant/workman in his claim petition.

Therefore, your honor, I prayed to you to kindly consider the matter in which my service w.e.f. 12.03.1983 to 23.05.1989 have already been curtained from being calculated for my pension amount fixation and I earnestly pray to your honour that the rest of my promotional benefits are given to me by my employer so that while retiring would be earning pension accordingly.

Learned counsel for appellant submits that as the services of workman/Sri Ravindra Kumar Sharma have been curtailed from 12.03.1993 to 25.05.1993 so the same shall be taken for calculation of pension and other retiral benefits as such the relief /benefit, as claimed by workman/claimant may be granted to him, in view of the circular dated 15.10.1992 titled as:-

Sub:- *conversion of casual labourers into time scale labourer and payment of medical allowances to casual labourers/time scale labourers*.

Relevant portion, quoted as under:-

1. *All those casual labourers who have completed 5 years continuous service as on 01.09.1992 will be converted as time scale labourers and will be placed in the time scale of Rs. 5000-10-700*

2. *All other casual labourers who will be completing 5 years continuo's services after 01.09.1992 will also be converted time scale labourers as and when they complete 5 years continuous service.*

Case of respondent

Learned counsel for respondent argued that against award dated 30.05.1995 by which it was directed that respondent shall reinstate Sri Ravindra Kumar Sharma with back wages and also to pay Rs. 200/- toward costs for filling writ petition before the Hon'ble High Court of Uttranchal at Nainital upheld that the reinstatement of Sri Ravindra Kumar Sharma/workman reduced the back wages to 50% from the date of reference if he comes to joins institution (CSB) and serves institution (CSB)

Learned counsel for respondent further submitted that after joining the duty as casual labour in pursuance to impugned order passed by the Hon'ble High Court Utranchal writ petition 182/2001 on 16.09.2005, after accepting the same and without protest workman Sri R.K. Sharma filed compliance report before the Chief Judicial Magistrate Dehradun in CCC No. 196 of 2005.

In the said case the Magistrate comes to the conclusion that the Central Silk Board complied with the order passed by the Hon'ble High Court in writ petition No. 182/2001 dated 16.09.2005 as such now appellant cannot take Y-turn prays for relief by means of the present case for which he was not entitled once he has no objection and at the time of joining of service on 16.09.2005 in pursuance to the order passed by the Hon'ble High court.

On behalf of the respondent is also argued that workman also filed writ petition no. 17716/2006 along with Sri Sunil Kumar filed writ petition seeking remedy for grant no temporary status under scheme however the same dismissed.

Accordingly in view of the above said factual background learned counsel for respondents submits that once in pursuance to the order dated 29.07.2005 passed in writ petition No. 182/01 by the Hon'ble High Court Uttranchal at Nainital, Sri Ravindra Kumar Sharma joined his duty as casual labour on 16.09.2005 and thereafter in this regard claimant filed compliance report before the Chief Judicial Magisrate Dehradun in CCC No. 1963/2005 and accepted that he has joined his duty as casual labour on 1609.2005 and he has not raised any objection for calculation his past services for beneficiaries and other consequential service benefits so he cannot raise the same in the present case as such appellant is not entitled for any relief, case is liable to be dismissed.

Learned counsel for respondent also argued that Shri Ravindra Kumar Sharma has reported the compliance of the court orders by the CSB before the Chief Judicial Magistrate and also before the Hon'ble High Court of Uttaranchal at Nainital Therefore, Shri Ravindra Kumar Sharma is stopped from raising the issue of not reinstating him from a retrospective date at this belated period of time Besides. Shn Ravindra Kumar Sharma is not entitled for reinstatement from a retrospective date as alleged it is also to be noted that there is no order of the Tribunal or the High Court granting him the consequential benefits or counting of past service.

Learned counsel for appellant further submits that Ravindra Kumar Sharma was only a Casual Labourer on daily wage basis and therefore he was reinstated as a Casual Labourer which he has accepted. He is not entitled for any other relief other than what has been ordered by the court. The allegation of intentionally misinterpreting the Tribunal's Order is not correct this organization has every respect for the court and its orders and has thus obeyed the court orders. His claim is otherwise belated and barred by time.

Accordingly it is submitted on behalf of respondent that Shri Ravindra Kumar Sharma has been given all the benefits which he is entitled to. As per the Beard's policy he has been converted as Time-Scale Farm Worker (TSFW) w.e.f. 16/09/2007 after completion of a 2 years continuous service as a Casual Labourer He has also been converted as a Grilled Worker He is not entitled to the benefit of Group D worker nor the corresponding financial benefits as ne is working only as a Farm Worker Group D is a permanent cons post. Under VI CPC recommendation approved for CSB the otherwise Group-B posts have been upgraded as Group- post and there is no prevision in the recruitment rules for filling up of Group-D posts.

Thus it is submitted on behalf of respondent that Sri Ravindra Kumar Sharma/workman is not entitled for any relief as per reference dated 05.05.2015 present case filed by him is liable to be dismissed.

Finding and conclusion

I have heard learned counsel for the parties and gone through record.

The admitted facts of the present case are in brief that Sri Ravindra Kumar Sharma initially engaged as casual labour in (CSB)/respondent on 12.03.1993 worked continuously (6.11.1987 and w.e.f. 7.11.1987 his services was retrenched.

Aggrieved by the same he filed ID case No. 129/1989 Sri R.K. Sharma Vs. Deputy Registrar, Regional Sericulture Research Station before the Central Government Industrial Tribunal cum Labour Court Kanpur allowed by award dated 30.05.1995 challenged by the respondent by filing of writ petition 182/ 2001 (M/s) (old No. 5576 of 1996) partly allowed by order dated 29.07.2005 as quoted herein above with a direction the workman shall be paid 50% of the back wages from the date of reference if he comes to joins the Institution (CSB) and serves the Institution (CSB).

It is not in disputed rather admitted by workman that same was duly accepted by him without any protests in compliance of the said judgment.

Further Sri R.K. Sharma/workman as per the said judgment submitted his joining as casual labour with effect from 16.09.2005 and not challenged the same to any higher forum and after reporting on duty he filed compliance report before the Chief Judicial Magistrate Dehradun in complaint case No. 196/2005 and all the benefits for which he was entitled to. As per board's policy, and also converted as time scale farm worker (TSFW) w.e.f. 16.09.2007 after completion of two years continuous service as Skilled Worker, was given to worker/Sri Ravindra Kumar Sharma.

Moreover on behalf of Sri Ravindra Kumar Sharma/workman in his cross-examination on 09.04.2018 he stated, relevant portion quoted herein below:-

***हाईकोर्ट के आदेश के बाद विभाग ने मुझे जॉइन कर दिया था। 16.9.2005 को जॉइनिंग हुयी थी। हाईकोर्ट की आदेश के बाद ए.एलसी देहरादून ने सी.जीएम देहरादून के न्यायालय में केस फाइल किया था।*

मैने जॉइन के समय विभाग के अधिकारियों द्वारा अडरटेकिंग लेने एवं जॉइनिंग लेटर के सम्बन्ध में दबाव बनाने के जिस तथ्य का उल्लेख किया है उसकी विषय में मैने किसी उच्च अधिकारी को या न्यायालय में शिकायत नहीं किया है।

मैने माननीय न्यायालय के आदेश होने के बाद सेवा के परिणामी लाभ एवं वरिष्ठता दिलाये जाने हेतु अपने विभाग में कोई प्रत्यावेदन नहीं दिया।

मेरे शपथपत्र के पैरा 7 में सी.जी.एम न्यायालय की कार्यवाहीं को जो उल्लेख है वह मेरे वकील साहब के बताने के आधार पर है।

मुझे विभाग बोर्ड की निति एवं आदेश के अनुरूप टाईम स्केल फार्म वर्कर का स्टाम्प दे दिया गया था स्वंय कहा कि 16.9.2005 को जॉइनिंग के आधार पर दिया था। टाइम स्केल स्वीकृति के सयम भी मैने अपने वरिश्ठता एवं परिणाम लाभ के सम्बन्ध में कोई प्रत्यावेदन नहीं दिया।

इसके उपरांत मुझे कु ाल फार्म वर्कर का भी लाभ दे दिया गया तब भी मैने कोई प्रत्यावेदन अपनी वरिष्ठता एवं परिणामी लाभ को नहीं दिया।

शपथ दिलायी गयी।

मैने अपने विभाग के एक अन्य कर्मी भी सुनील कुमार के साथ मिलकर माननीय कर्नाटक हाई कोर्ट में एक याचिका वर्ष 2006 में दाखिल की इस याचिका का वर्तमान प्रकरण में कोई संबंध नहीं है। अंत में याचिका खारिज हो गयी थी।

वर्श 2005 में पुनः जॉइनिंग के बाद मुझे जो समय समय पर हित लाभ मिले उसे मुझे पूर्व में दिया जाना चाहिये था इस आशय की आपत्ति या प्रार्थनापत्र मैने कभी विभाग में नहीं दिया।

मुझे हाईकोर्ट उत्तराखंड के आदेश दिनांक 29.7.2005 के अुनक्रम में 50 प्रतिशत बैक वेजस प्राप्त हो गयी है।

यह कहना गलत है कि मुझे दिनांक 30.5.95 (CGIT KND) के अवार्ड के फलस्वरूप समस्त हित लाभ मिल गये है।

यह कहना गलत है कि उक्त अवार्ड का परिपालन किया जा चुका है।

इइसुनकर तसदीक किया''।

Moreover as per record initially aggrieved by action of the respondent by which services was retrenched/terminated on 7.11.1987 filed in I.D. case no. 129/1989 Sri Ravindra Kumar Sharma Vs. The Deputy Registrar Regional Sericulture Research Station, Dehradun allowed by order dated 30.05.1995 challenged by the respondent by filing writ petition no. 182/2001 allowed by order dated 29.7.2001 with certain direction in pursuance to the said fact, appellant joined his duties as casual labour with effect from 16.09.2005 and in this regard he submitted compliance report before the Chief Judicial Magistrate Dehradun in complaint case No. 196/2005 in his evidence has categorically admitted the said fact and moved an application that he accepted the joining in pursuance to the order passed by the Hon'ble High Court in writ petition no. 182/2001 as casual labour with effect from 16.09.2005.

Further in addition to the said facts workman along with Sri Sunil Kumar filed a writ petition (112 of 2001) seeking relief for 50% belated wages and other reliefs as claimed in the present case was dismissed.

Thus keeping in view of the above said facts workman/claimant is not entitled for service benefits (seniority and continuity in service appointment) fixation of pension either from the date of passing of the award in favour of the claimant in ID case 129/1989 (30.05.2005) and alternative from the date of passing of the judgment passed by the Hon'ble High Court in writ petition 182/2001 (M/s) (old No. 5576 of 1996). As per clause 1 of circular dated 15.10.1992 as prayed by him by means of present I.D. case as well as the law as laid down by the Hon'ble Apex Court in case of **B.L. Sreedhar & others Vs. K.M. Munireddy (dead) & other (2003) 2 SCC 355,** relevant paragraph quoted herein below:-

13. *Estoppel is a rule of evidence and the general rule enacted Sc 115 of the Indian Evidence Act 1872 (in short "Evidence Act) which lays down that when one person has by his declaration. act or omission caused or permitted another person to believe a thing to be true and to act upon that belief, neither he nor his representative shall be allowed in any suit or proceeding between himself and such person his representative to deny the truth of that thing [See Sunderabai and Anr. v. Devaji Shankara Deshpande (AIR 1954 SC82)*

14 *"Estoppel is when one is concluded and forbidden in law to speak against his own act or deed, yea, though it be to say the truth" Co.Litt. 352(a), cited in Ashpital v. Byron. 3B and S. 474(489) Simon v Anglo American Telegraph Co. (1879) 5 QBD. 188 CA per Bramwell L.J. at p. 202. Halsbury, Vol. 13. Para 488. So there is said to be an estoppel where a party is not allowed to say that a certain statement of fact is untrue, whether in reality it be true or not. Estoppel, or conclusion, as it is frequently called by the older authorities, may therefore be defined as a disability whereby a party is precluded from alleging or proving in legal proceedings that a fact is otherwise than it has been made to appear by the matter giving rise to that disability. Halsbury, Vol. 13, para. 448. The rule on the subject is thus laid down by Lord Deman in Pickard v. Sears 6 Ad. & &E 469 at p. 474*

"But the rule is clear, that, where one by his words of conduct willfully cares another to believe the existence of a certain state of things, and induces him to act to that belief, to as to alter his own previous position, the former is concluded from averring against the latter a different state of things as existing at the same time.

"The whole doctrine of estoppel of this kind, which is fictitious statement treated as true, might have been founded in reason, but I am not sure that it was. There is another kind of estoppel- estoppel by representation-which is founded upon reason and it is founded upon decision also. Per Jessel. MR in General Finance & Co. v. Liberator, LR. 10 Ch.D.15(20).

Further the Hon'ble the Apex Court in the case of **Union of India Vs. Susaka Pvt. Ltd. (2018) 2 SCC 182**, the relevant paragraph 26 and 27 are quoted below:-

26. Everyone has a right to waive and to agree to waive the advantage of a law made solely for the benefit and protection of the individual in his private capacity, which may be dispensed with without infringing any public right or public policy. Cuilibet licet renuntiare juri pro se introducto. (see Maxwell on the Interpretation of statutes 12th Edition at page 328).

27. If a plea is available-whether on facts or law, it has to be raised by the party at appropriate stage in accordance with law. If not raised or/and given up with consent, the party would be precluded from raising such plea at a later stage of the proceedings on the principle of waiver. If permitted to raise, it causes prejudice to other party. In our opinion, this principle applies to this case. (see alo Rupchand Ghosh Vs. Savesran Chandra (1906) 33 cell 915 and Sri Karan Singh Vs. Sita Ram Aggrawal AIR 1994 SC page 364.

In addition to above said facts after passing of the order dated 29.7.2001 in writ petition No. 182/2001 by the Hon'ble High Court Nainital he joined his services as casual labour with effect from 16.09.2005 and submitted compliance report before the Chief Judicial Magistrate Dehradun in complaint case No. 196/2005 that he accepted the joining in pursuance to the order passed by the Hon'ble High Court with effect from 16.09.2005, as such in view of the principle of waiver which means that an intentional relinquishment of a non-right. It involves conscious abandonment of a existing legal right, advantage, benefit, claim or privilege, which except for such a waiver, a party could have enjoyed. In fact, it is an agreement not to assert a right. There can be no waiver unless the person who is said to have waived, is fully informed as to his rights and with full knowledge about the same, he intentionally abandons them. **(See Dawsons Bank Ltd. Vs. Nippon Menkwa Kabushihi Kaish, AIR 1935 PC 79; Basheshar Nath Vs. Commissioner of Income Tax, Delhi and Rajasthan & Anr., AIR 1959 SC 149; Mademsetty Satyanarayana Vs. G. Yelloji Rao & Ors. AIR 1965 SC 1405; Associated Hotels of India Ltd. Vs. S.B. Sardar Ranjit Singh, AIR 1968 SC 933; Jaswant Sinth Mathur Singh & Anr. Vs. Ahmedabad Municipal Corporation & Ors., (1992) Suppl 1 SCC 5; M/s Sikkim Subba Associates Vs. State of Sikkim, AIR 2001 SC 2062; and Krishna Bahadur Vs. M/s Purna Theatre & Ors., AIR 2004 SC 4282**, claimant is not entitled for any relief in the present case as per reference dated 05.5.2011.

ORDER

For the foregoing reasons appellant/Sri Ravindra Kumar Sharma is not entitled for seniority and contrary in service from the date of joining as per order of Hon'ble High Court as per reference dated 5.5.2011

Accordingly reference is answered.

Award as above.

Lucknow.

Date 24.7.2024

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1933.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **मेसर्स अरूण एविऐशन सर्विसेज प्रा० लिमिटेड ,महिपालपुर एक्सटेंशन, नई दिल्ली,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अनिल कनौजिया, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **94/2021**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 10.10.2024 को प्राप्त हुआ था।

[सं. एल–42025/07/2024-175 आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 10th October, 2024

S.O. 1933.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/2021) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Arun Aviation Services Pvt. Ltd., Mahipalpur Extension, New Delhi, and Shri Anil Kanaujia, Worker,** which was received along with soft copy of the award by the Central Government on 10.10.2024.

[No. L-42025/07/2024-175– IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 94/2021

BETWEEN

अनिल कनौजिया, पुत्र स्व० लालमुनि

निवासी- म०नं० 83, **मेउडी कला रतन पुरामऊ, उत्तर प्रदेश**-221706

AND

1. **मेसर्स अरूण एविऐशन सर्विसेज प्रा० लि० ए**-113, **रोड नम्बर**-2, **महिपालपुर एक्सटेंशन नई दिल्ली**-110037

2. **उत्तर रेलवे लखनऊ मण्डल, हजरतगंज, लखनऊ**-226001 **द्वारा मण्डल रेल प्रबन्धक**

AWARD

On 13.09.2021 the claimant/workman has filed the present industrial dispute as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Accordingly, an industrial dispute No. 94/2021 has been registered.

Facts stated in the claim petition are in brief that claimant was initially appointed with the respondent; however without following the provision of retrenchment as provided under section 25(F) of the Industrial Dispute Act 1947 (hereinafter referred to as the Act) his services were dispensed on 21.04.2019.

On behalf of the respondent statement of defense filed on 06.01.2021 in which preliminary objection also taken by the respondent no. 1. However, no statement of defence has been filed on behalf of respondent no. 2; accordingly, opportunity of respondent no. 2 to file its defence was closed vide order dated 07.02.2023.

After filing of the written statement by respondent, in spite of opportunities given to workman, he neither filed rejoinder nor evidence in support of his case on affidavit.

Accordingly heard respondent no. 1; and gone through the records.

In view of the above said facts the claimant/workman has not field any rejoinder/evidence in support of his case on affidavit, in spite of several opportunities given to him and taking into consideration the law as laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (1) and others 1981 (29) FLR 194*** as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove

illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

21st June, 2024

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1934.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट** बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (212/2014) प्रकाि ात करती है।

[सं. एल–12011/59/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 212/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/59/2014-आई.आर. (बी-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 212/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Kothagudem,

..… .Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/59/2014 (IR(B-I)) dated 29.09.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Danavaipet Branch of East Godavari District Andra Pradesh in terminating the service of Smt. Vaddadi Laxmi Devudamma, Full time Safai Karmachari/Scavemger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 212/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1935.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट** बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (231/2014) प्रकाि ात करती है।

[सं. एल–12011/73/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 231/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/73/2014- IR. (बी-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 231/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Kothagudem,

.. ….Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/73/2014 (IR(B-I)) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between

the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Mandapeta Branch of East Godavari District Andra Pradesh in terminating the service of Smt. M. Adilakshmi, part/Full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 231/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1936.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (237/2014) प्रकाि ात करती है।

[सं. एल–12011/79/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1936.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.237/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/79/2014- IR- (B-I)]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 237/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Kothagudem,

.. ….Petitioner

AND

1. The Asst. General Manager,

   SBI, Regional Office,

   Kakinada

2. The Chief General Manager,

   State Bank of India,

   Local Head Office, Koti,

   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/79/2014 (IR(B-I)) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Kaleswara Rao Market Branch, Vijayawada, Krishna District Andra Pradesh in terminating the service of Sri K. Nukaraju, part/full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 237/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1937.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (238/2014) प्रकाि ात करती है।

[सं. एल–12011/72/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1937.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 238/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/72/2014-IR- (B-I)]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 238/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Kothagudem,

.. ….Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/72/2014 (IR(B-I)) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Draksharamam Branch of East Godavari District Andra Pradesh in terminating the service of Sri Danala Narayana, part/full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 238/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1938.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (234/2014) प्रकाि ात करती है।

[सं. एल–12011/75/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1938.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 234/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/75/2014-IR- (B-I)]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 234/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Kothagudem,

..… .Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/75/2014 (IR(B-I)) dated 21.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Tunj Branch of East Godavari District Andra Pradesh in terminating the service of Smt. V. Appayamma, part/full time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 234/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1939.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (11/2017) प्रकाि ात करती है।

[सं. एल–12025/01/2024-आई.आर. (बी-I) -221]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1939.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.11/2017*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12025/01/2024-IR- (B-I) -221]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 9th day of August, 2024

INDUSTRIAL DISPUTE L.C.No.11/2017

Between:

Sri D. Mabu Subhani Basha,

S/o Sri S. Alli Peeran,

R/o 8/1-57-8, Indira Nagar,

Dhone, Kurnool District – 518 222. .. ….Petitioner

AND

1. The Regional Manager,
   Appointing /Disciplinary Authority,
   State Bank of India, Region II, NW-3,
   Regional Business Centre, Vishnu Sai Enclave,
   Main Road, Venkataramana Colony,
   Kurnool – 518 003.
2. The Deputy General Manager (B & O)
   Appellate Authority,
   State Bank of India,
   Administrative Office,
   Tirupathi – 517501. …. Respondents

Appearances:

For the Petitioner : M/s. B K M Chakravarthy & B.P.Mamta, Advocates

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri D. Mabu Subhani Basha who worked as Sr. Assistant (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents State Bank of India, seeking for reinstatement into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The brief facts as averred in the claim statement filed by the Petitioner are as follows**:-

It is submitted that the Petitioner was initially appointed by the Respondents' Bank as Clerk on 26.9.1996 and during 2015-16 he was working as Senior Assistant, SBI Velugode Branch, Kurnool. It is submitted that the Petitioner is an active member of the SBI staff union and also is holding a prominent post in the union and used to raise his voice against the management whenever there is any discrepancy shown by the management. It is submitted that during this period the Petitioner was served with a charge Sheet. It is submitted that against all the charges that were pitted against the Petitioner, explanations were given by the him and after conducting domestic enquiry, the first Respondent has issued the orders of punishment of removal from service with superannuation benefits(i.e., Pension and Provident fund and gratuity) as would be due otherwise under the rules and regulations prevailing at the relevant time and without disqualification from future employment vide their letter No.DPC/R-II/234 dated 29.12.2015. Further, it is submitted that the whole process of enquiry was conducted without adhering to the principles of natural justice. In fact, the disciplinary proceedings dated 20.7.2015 contains a clause that, "You will not be permitted to be defended by a lawyer." It is submitted that aggrieved by the orders of the first Respondent Petitioner preferred and appeal before the 2nd Respondent, wherein 2nd Respondent confirmed the orders of the 1st Respondent. It is submitted that the charges pitted against the Petitioner and punishment of removal from service awarded are highly disproportionate which is a capital punishment. It is submitted that the Petitioner is a member of the SBI Staff Union, who is actively participating in the activities of the union and as a part of his responsibilities of the union, sometimes he used to raise voice against the bank. The said actions are nothing in person or against any person or official of the bank. But only to highlight the actions initiated by the bank. The steep rise of the Petitioner in the union activities has become sore eye to the bank officials and thus removed the services of the Petitioner for no fault. It is submitted that none of the charges pitted against the Petitioner would fall under the category of gross misconduct as envisaged in the para No.5 of the memorandum of settlement dated 10.4.2002 executed between management of 50 to a class banks and their workmen. It is further submitted that the Charge No.I, mainly based on the alleged complaints given by two customers, i.e., Sri G. Mallikarjuna and Sri B. Hanumanthu and considered the complaints by issuing the charges, whereas the same two customers voluntarily withdrew their complaints in writing which was acknowledged by the bank officials but the said aspect was not considered by the Respondents. The Respondents simply negated the said aspect by alleging that the Petitioner had stage managed the customers and got issued the withdrawal letters. Regarding charge No.II, recording of denominations of the notes is not mandatory but being done only for the sake of convenience of the employee so that at the end of the day one can easily ascertain the transactions and respective denominations. Regarding charge No.III, pertaining to availing of loan by a 3rd party wherein the Petitioner stood as guarantor, which is purely in the personal capacity of the Petitioner. The bank has no right to curtail the actions of the Petitioner. More so, due to the actions of the Petitioner, it is his salary that was effected neither the property of the bank nor its fame and name, were tarnished or damaged. The charge No.IV, shall have some impact on the bank only in the event of any willful default by the Petitioner. It is submitted that the actions of the Petitioner are not detrimental to the name, fame and reputation of the Bank and no amount of financial loss was incurred by the Bank. the Petitioner never acted prejudicial to the interest of the bank standing as guarantor to a family friend out of personal funds of the Petitioner cannot be covered under service misguidance and the Petitioner is unable to understand how the Respondent take cognizance of such misconduct. The order of misconduct is silent about prejudice caused to the interest of the bank and nowhere it is mentioned either in charge sheet, inquiry report or in punishment order, under what provisions of the conduct rules these alleged offenses are covered? Hence, it is prayed to set aside the punishment order of Disciplinary Authority and confirmation order by Appellate Authority and to reinstate the Petitioner in service with all consequential benefits.

3. **Respondent filed counter denying the averments of the Petitioner as under**:-

It is submitted that Petitioner was appointed as Clerk on 26.9.1996 and while he was working as Senior Assistant, SBI, Velugodu branch, Kurnool was given a show cause notice dated 29.6.2015 for committing certain serious irregularities/lapses while he was working as a customer assistant at R.S. Pendekal Branch, Kurnool District:-

Charge I:-

As a paying cashier, you have short paid amounts to various customers while paying the loan amounts in cash.

Allegation 1(a):-

On 24/1/2015, you have made payment in an agricultural gold loan account No. 34634578058 to Sri G. Mallikarjuna an Amount of Rs. 31,000/-. In addition to this amount, Sri G. Mallikarjuna paid an amount of Rs.13,000/- for closure of his earlier gold loan account No.32362584447 with outstanding balance of Rs. 41,590/-. You have not returned the residual amount of Rs.2410/- to Sri G. Mallikarjuna after adjusting the above three transactions.

Allegation I(b):-

On 8.1.2015, you have paid an amount of Rs.19,600/- instead of Rs.20,600/- to Sri B. Hanumanthu, KCC borrower against withdrawal of Rs.24,000/- from his KCC account No.11554564613 after deducting. Rs.3400/- towards interest of KCC account. You have retained Rs.1000/- and replied to the customer that the amount was for your expenses.

Charge II:- You have failed to record the denominations of the vouchers, either in case of cash receipts or payments in violation of existing instructions of the bank.

Allegation II:- You have failed to record the denominations of the notes on the vouchers either in case of cash receipts or payments, in violation of existing instructions of the bank.

Charge III:- You have not obtained prior permission for standing as guarantor to outsiders financial liability.

Allegation III:- You stood as guarantor to Smt. S. Haseena who availed a loan of Rs.5,00,000/- from Sri Ram City Union Finance Limited, Dhone without obtaining prior permission from the competent authority. Since Smt. Haseena defaulted repayment of the loan, the branch got a court order from Addl. Senior Civil Judge Kurnool vide AA No. 354/ 2013 dated 26.11.2014 for Rs.5,28,500/-

Charge IV:- You have resorted to misuse of computer loan facility

Allegation IV:- On 1.2.2014, you availed a computer loan for purchase of Dell Laptop for Rs.40,000/- which was paid to M/s. Lakshmi Murthy Electronics, Dhone as per your computer loan application. You have failed to submit/ cash bill /invoice to the branch. On 18.5.2015, you have submitted a bill dated 18.2.2015 from a different supplier i.e., M/s. LG Enterprises, Dhone, showing that you have purchased Sony Laptop."

It is submitted that Petitioner had submitted his reply dated 6.7.2015 and as the same was found unsatisfactory, it was decided to conduct an enquiry. Notice was issued to the Petitioner. Enquiry was conducted and enquiry report dated 3.11.2015 was submitted by the Enquiry Officer and accordingly a copy of it was forwarded to the Petitioner on 9.11.2015. It is submitted that the Disciplinary Authority after considering the submission of the Petitioner, furnished his findings to him by his proceedings dated 7.12.2015, tentatively imposing the punishment of removal from service with superannuation benefits(i.e., pension, provident fund and gratuity) and the Petitioner was called upon to attend a personal hearing on 17/12/2015 and after considering the entire record, the Disciplinary Authority passed proceedings dated 29.12.2015 imposing the punishment of removal from service with superannuation benefits(i.e., pension, Provident fund and gratuity) on the Petitioner. He was given an opportunity to file an appeal and the Petitioner file an appeal to the Appellate Authority and that was dismissed confirming the punishment imposed by the Disciplinary Authority. It is submitted that the charges were held proved after conducting an appropriate inquiry in terms of the rules. The punishment imposed is in conformity with the misconduct proved and it does not call for any interference. Hence, prayed to dismiss the present industrial dispute.

4. On the basis of rival pleadings of both the parties following points emerges for determination in the present matter:-

I. Whether the departmental enquiry conducted against workman is legal and valid?

II. Whether the action of the Respondent State Bank of India in inflicting the punishment to the Petitioner of removal from service with superannuation benefits, (i.e., Pension, PF and gratuity) as would be due otherwise under the rules and regulations prevailing at the relevant time and without disqualification from future employment is legal and justified?

III. Whether the punishment inflicted upon the Petitioner by the Respondent is disproportionate and not commensurate to the gravity of the charges?

IV. To what relief, if any, Petitioner is entitled for?

Findings:-

5. Point No.I: -The domestic enquiry conducted by the Respondent held legal and valid vide order dated 8.6.2023.

Thus, this Point is answered accordingly.

6. Point No.II:- Undisputedly, in this matter, Petitioner was served with the charge sheet by the Respondent Management as mentioned in the counter of the Respondent, under Charge No. I, two allegations i.e., I(a) and I(b), Charge Nos.II, III and IV. After conducting the departmental enquiry the Enquiry Officer has submitted report to the Respondent Management with the finding that Petitioner has been found guilty of charges No.1(a)& (b), III and IV. The Disciplinary Authority after issuing second show cause notice to workman and giving him hearing opportunity and after perusal of material on record of enquiry proceeding has imposed the punishment of removal from service with superannuation benefits(i.e., pension, Provident fund and gratuity) under rules and regulations prevailing at the relevant time and without disqualification from future employment to the Petitioner vide proceedings dated

29.12.2015.

7. The Petitioner in his claim statement has challenged his removal order dated 29.12.2015 from service on the ground that whole process of the enquiry was without adhering to the principles of natural justice. Further, it is submitted that charges against the Petitioner and punishment awarded to the Petitioner is highly disproportionate to the alleged misconduct. As regards, the charge No.I, Petitioner counsel submits that it is mainly based on the alleged complaint given by two customers, i.e., i) Sri G Mallikarjuna and ii) Sri B Hanumanthu and considering the complaint, whereas these two customers voluntarily has withdrew their complaint in writing which has been acknowledged by the bank officials but the said aspect was not considered by the Disciplinary Authority and Disciplinary Authority simply has given the reason that the Petitioner has stage managed customers and got issued withdrawal letters.

8. Whereas Respondent has contended in this regard that from the depositions of PW2 and DW2, it is evident that the Complainant Sri G. Mallikarjuna himself confirmed that he gave the complaint on 28.1.2015 to AGM at RBO, Kurnool against Petitioner alleging misappropriation of Rs.3000/-. Similarly complainant Sri B Hanumanthu also testified that he gave the complaint against Petitioner. Therefore, it is clearly established from record that Petitioner misappropriated of Rs.3000/-. Further, Respondent contended that it is evident from the depositions of PW2 and DW1 that complainant Sri B. Hanumanthu himself confirmed that he gave the complaint on 28/1/2015 to AGM at RBO, Kurnool against Petitioner alleging misappropriation of Rs.1000/-, it is clearly evident from the statement of the complainant that Petitioner has misappropriated Rs.1000/-.

9. Petitioner Counsel submitted that complainant Sri B Hanumanthu and Sri G Mallikarjuna have clearly deposed in the enquiry that they have lodged a false complaint against the Petitioner and also acknowledged that it was a hasty decision on their part. The complainants have also deposed that as and when they approached the bank, the Petitioner has rendered excellent services to them and Petitioner had made payment purely on the humanitarian consideration. However, Petitioner submitted that the prosecution could not produce Sri B Hanumanthu, complainant (maker of PEx No.2/1&2/5) as prosecution witness even though he was very much available in the branch premises. Further, Petitioner submits that the maker of PEx No.2/1/ & 2/5 will have to testify before the enquiry about the genuineness of the complaints. Since complainant has not testified complaint during the enquiry, the depositions given by 3rd parties like PW2 and PW1 cannot be taken into cognizance. It is submitted that mere production of documents is not sufficient unless it is testified in the enquiry by the maker of the document. Further, Petitioner submitted that complainant Sri B Hanumanthu is the maker of the document DEx.No.1 and DEx.No.6, has clearly deposed in the enquiry by perusing DEx.No.1 and DEx.No.6 that it is a complaint withdrawal letter dated 3.2.2015 written by him. Further, it is submitted that witness by perusing P Ex.No.2/1 and PEx.No.2/5 has deposed that correct amount has been paid to him by the gold cashier i.e., chargesheeted employees Sri DMS Basha and he has not taken any amount from them. Witness has also deposed that the CSE has given him correct amount on that day i.e., 8.1.2015. Further, witness also deposed that he lodged a complaint during January, 2015 without knowing the true facts and when he came to know the true fact, he has sincerely withdrawn the complaint lodged against the Petitioner.

10. The record of the enquiry proceedings would reveal that although complainants Sri G. Mallikarjuna and B. Hanumanthu has given complaint against the Petitioner but later as they have filed an application for withdrawal of these complaints against the Petitioner due to reason mentioned therein. Hence, these complaints have not supported the version of the complainant in their testimony during the enquiry and stated that they have already moved another application for withdrawal of their complaint against the Petitioner. The application for withdrawal of complaint contains explanation and cogent reason which complainant has furnished as to why they have withdrawn their complaints. But the Enquiry Officer did not assign any reason in his report as to why he discarded the withdrawal application of the complainants. It seems the Enquiry Officer with predetermined approach returned the finding that the complainant himself has confirmed that he gave complaint against the CSE. But Enquiry Officer did not consider the reason shown in withdrawal petition filed by both complainants Sri B. Hanumanthu and Sri G. Mallikarjuna. Thus, the Petitioner can not be held guilty of charges of misappropriation merely on the basis of uncorroborated evidence of the complaint, since both the complainants i.e., Sri G. Mallikarjuna and Sri B. Hanumanthu did not support the prosecution case for misappropriation against Petitioner CSE. Hence, for the want of cogent and reliable evidence in support of charge No.1(a)(b), the charge of misappropriation against the Petitioner cannot be held proved.

In this context, I would like to make reference of decision **of Hon'ble Apex Court in the case of LIC of India Vs. Rampal Singh** wherein Hon'ble Apex Court have held,

" 26. We are of the firm opinion that mere admission of document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof, which is required to be done in accordance with law. As has been mentioned herein above, despite perusal of the record, we have not been able to come to know as to under what circumstances Respondent plaintiff had admitted those documents. Even otherwise, his admission of those documents cannot carry the case of the appellants any further and much to the prejudice of the respondent.

27. It was the duty of the appellants to have proved documents Exh. A-1 to Exh. A-10 in accordance with law. Filing

of the Inquiry Report or the evidence adduced during the domestic enquiry would not partake the character of admissible evidence in a court of law. That documentary evidence was also required to be proved by the appellants in accordance with the provisions of the Evidence Act, which they have failed to do."

In view of the above discussed principle by Hon'ble Apex Court, in the present matter, that contents of the complaint are required to be proved by the evidence of complainants. But complainant did not support the prosecution case based on the complaint. The contents of the documents i.e., complaint cannot be said to be proved itself by mere filing in the court. It should be proved by the testimony of maker of such document. Therefore, in view of the fore gone discussion, the Charge No.I, against the Petitioner stands not proved even to the extent ot preponderance of probability.

11. It is evident from record that charge No.II, was not found proved against Petitioner in the enquiry.

12. Further, as regards charge No.III, Learned Counsel for the Petitioner submits that the defence witness DW3 has deposed in the enquiry that she has taken loan of Rs.5,00,000/- from M/s. Sri Ram City Union Finance Limited, Dhone to meet the medical expenses of her husband who is till date bed ridden and also for business development. Further, it is submitted that the defence witness DW4 has deposed in the enquiry by perusing the PEx.No.3/1 that the Petitioner stood as a guarantor for the loan taken by Smt. Haseena along with her husband Sri S. Rafiq. Further, the witness deposed that Smt. Haseena who is a friend of his wife approached him to sign as a guarantor to the loan from Sri Ram City Union Finance Limited, Dhone to meet the medical expenses of her husband who was seriously ill. The witness has also deposed that he stood as a guarantor to the loan taken by Smt. Haseena. From the above statement of witness it reflects that the charge sheeted employee has stood as a Guarantor to the loan taken by Smt. Haseena purely on humanitarian grounds to help her in medical exigencies on her request. Although there is violation of Standing Orders as CSE did not inform the employer, but CSE has no malice or willful intention to violate any Standing Order of the Company. The CSE without knowing the implications of it has signed the documents as a guarantor. Further, DW4 has also deposed that he was not aware that he should obtain the prior permission from the Competent authority to stand as guarantor.

13. On the other hand, Respondent has contended that it is clear from the deposition of PW1, DW3 and DW4 that the Petitioner has stood as guarantee to the outsider without obtaining prior permission from the competent authority as per PEx. 3/1 to 3/9. The copy of order of Addl. Sr. Civil Judge, Kurnool on record reflects that Petitioner has received his salary attachment order against said guarantee. Undisputedly, Petitioner has not obtain prior permission from the competent authority for standing as guarantor to outsider in loan matter, but there is no finding of the Enquiry Officer to this effect that there was any malice or willful intention on the part of workman. Although, Disciplinary Authority has found Petitioner guilty of this charge against Petitioner, but of such misconduct is of minor nature and not of such serious and grave nature that it would warrant imposition of punishment of his removal from service. On this count Disciplinary Authority has failed to appreciate the nature of charge of minute nature before imposition of punishment of removal.

14. Further, Learned Counsel for Petitioner submitted that allegation in the charge No.IV against Petitioner is totally false and fabricated to tarnish the image of the charge sheeted employee. The counsel for Petitioner vehemently argued that the issue is whether there is any misuse of the fund by availing computer loan facility or not. It is submitted that he has applied for loan to purchase the laptop make of Dell Company and he has purchased the same and has submitted the receipt of the same to the Respondent Management. But, the Branch Manager has lost it and requested the CSE to produce the bill from any supplier for central office inspection. The Branch Manager kept quiet as soon as the CSE has produced the bill from M/s. LG Enterprises for Sony laptop on 18.5.2015 instead of raising any objection and later on deliberately implicated the CSE in this case.

15. On the other hand, Respondent has contended that it is very clear from the DEx 4/3 that the Petitioner has submitted Bill for purchase of Dell laptop from M/s. Lakshmi Murthy Electronics, Dhone. It is fact that Petitioner did not submit the original bill from M/s. Lakshmi Murthy Electronics and has submitted the bill from LG Enterprises for different make of Sony laptop dated 18th May 2015 as Pex.4/2. Thus, the Petitioner failed to submit a cash bill in evidence of purchase of Dell laptop. Accordingly, disciplinary authority rightly held that the charge was proved.

16. Perused the record. Document on record reveals that Petitioner has availed the Loan of Rs. 40,000/- from Respondent bank for purchasing the laptop of Dell Company though invoice from M/s. Lakshmi Murthy Electronics, Dhone. But the Petitioner has not submitted a bill from M/s. Lakshmi Murthy Electronics, instead submitted the bill obtained from LG Enterprises dated 18th May 2015 pertaining to purchase of Sony laptop for the same amount.

17. Undisputedly, loan amount of Rs.40,000/- was sanctioned to Petitioner for purchasing the laptop of Dell Company, but he has submitted bill for laptop of Sony Company. It is not the case of Respondent that Petitioner has not purchased the laptop after sanction of loan of Rs.40,000/-. The loan facility availed for purchase of laptop has to be repaid by CSE himself from his salary. There is no loss of property to the Respondent bank by any irregularity committed by the CSE in utilizing the loan amount for purchase of laptop. Though he may be guilty of committing violation of any rules or standing orders, but such violation cannot be said to be so grave in nature that would warrant to inflict punishment of removal of CSE from the service. Thus, in view of the fore gone discussion, I am

of the opinion that the Charges No.III & IV against the CSE are not of gravious and serious nature which would warrant the punishment of removal from service of the Petitioner. On this count, Disciplinary Authority has failed to appreciate the nature and gravity of charges proved against CSE before passing the punishment order in question in this matter.

18. Now, let us examine whether the imposition of punishment of removal of the Petitioner from service with retiral benefits i.e., Pension, PF and gratuity is disproportionate and not commensurate to the charge proved against him. The Learned Counsel for Petitioner submitted that charges pitted against the Petitioner and punishment awarded to the Petitioner is highly disproportionate. Further, it is submitted that Petitioner is not entitled for punishment of removal of service which is being a capital punishment. Further, it is submitted that the Respondent utterly failed to understand valid cordinal proof that when two views are possible, which is in favour of the accused shall be taken into Consideration. It is submitted that Petitioner is a Member of SBI staff union, actively participating in all the Union activities and as a part of responsibility of Union sometimes Petitioner used to raise his voice against the bank. The said actions are nothing in personal against any person or official of the bank but only to highlight the actions initiated by the bank. The steep rise of the Petitioner in the union activities has become soar eye to the bank officials and the bank officials being in a commanding and pre dominant position removed the services of the Petitioner for no fault of his. Further, it is submitted that the Petitioner was made a scapegoat at the high handedness of the bank officials who are prejudicial to remove the Petitioner and action of the management clearly manifest that the entire Fiasco is nothing but act of personal vendetta. Further, it is submitted that it is not out of place to mention here that none of the actions of the Petitioner against which the charges or allegations are pitted against him. The Petitioner would not fall under the category of gross misconduct as envisaged in the para No.5 of the Memorandum of Settlement dated 10th April, 2002 executed between the management of 52 A class banks and their workmen.

19. On the other hand, Respondent contended that Disciplinary Authority has rightly imposed the punishment of removal of Petitioner from service for his proved misconduct and it does not call for any interference. It is further submitted that the Respondent being a financial institution cannot afford to keep the Petitioner in service. There is no merit in the dispute and the same is liable to be dismissed.

20. Perused the record. Since the Petitioner workman was the employee of the State Bank of India Bank, therefore, the disciplinary action against the Workman would be governed by the conditions of Bi-partite settlement dated 10th April 2002. Respondent management has imposed the punishment of removal of CSE from service with the aid of clause 6(C) of the Bi-partite settlement dated 10th April 2002. It provides the punishment for guilty of gross misconduct by workmen. The gross misconduct has been defined at Point No.5 of the Bi-partite settlement dated 10th April 2002 which provides number of acts of misconducts enumerated from point (a) to point (e). As per impugned order of removal passed by Disciplinary Authority, charges levelled against CSE has been found proved under Point 5(d) of the Bi-partite settlement. Point 5(d) provides:- *"willful damage or attempt to cause damage to the property of the bank or any of its customers*". But from the perusal of the record, enquiry officer has nowhere given any finding that by the act of Petitioner, if there was willful damages to the property of the bank or any of its customers. However, Petitioner has also not been found habitually doing any act which may amount to gross misconduct. Further, the charge of giving or taking a bribe for illegal gratification from a customer has not been found proved against the Petitioner for the want of supporting evidence of both the complainants. Therefore, in view of fore gone discussion, I am of the view that charge No.I against CSE not found proved and rest of the charges i.e., Charge Nos. III and IV are of not so serious which may amount to gross misconduct under Bi-partite settlement dated 10.4.2002. Therefore, the imposition of the punishment of removal of service of Petitioner is disproportionate and not commensurate to charge levelled against CSE.

As regards the power of Tribunal to interfere in the order of imposition of punishment, I would like to make reference of the decision of the **Hon'ble Supreme Court of India in the case of. United Bank of India Vs. Biswanath Bhattacharjee, order dated 31st January 2022, Civil Appeal No.8258 of 2009, where in the Hon'ble Apex Court have held:-**

17. Apart from cases of no evidence, the sport has also indicated that judicial review can be resorted to. However, the scope of judicial review in such cases is limited. In BC Chaturvedi versus Union of India, a three- judge bench of this court ruled that judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the Court. The court /tribunal in its power of judicial review does not act as an appellate authority; he does not read appreciate the evidence. The court held that:

"12. Judicial review is not an appeal from a decision, but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an enquiry is conducted on charges of misconduct by a public servant, the court/ Tribunal is concerned to determine whether the enquiry was held by a competent officer or whether rules of natural justice or complied with. Whether the findings are conclusions are based on some evidence, the authority entrusted with the power to hold enquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence.

Neither the technical rules of the Evidence Act nor of proof of fact or evidence as defined there in apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The court/ tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The court/tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the court /tribunal may interfere with the conclusion or the finding and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has to has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary enquiry. The strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal. In Union of India vs. H.C. Goel, this court held at p.728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

18. Other decisions have ruled that being proceeding before a domestic tribunal, strict rules of evidence are adherence to the provisions of the Evidence Act, 1872 are inessential. However, the procedure has to be fair and reasonable, and the charged employee has to be given reasonable opportunity to defend himself. In Moni Shankar vs. Union of India, this court outlined what judicial review entails in respect of orders made by disciplinary authorities.

" 17. The departmental proceeding is a quasi judicial one. Although the provisions of the Evidence Act are not applicable in the side proceeding, Principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether, while inferring Commission of misconduct on the part of a delinquent officer, relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded there from. Inference on facts must be based on evidence which meet the requirements of legal principles. The tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely preponderance of probability. If on such evidence that test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere." This court struck a similar note in State Bank of Bikaner and Jaipur Vs.Nemichand Nalwaya where it was observed that:

"If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record".

In view of the law laid down by the Hon'ble Apex Court as discussed above, in the present matter the charges No.I and II were not found proved against the Petitioner workman for want of corroboration of contents of the complaint by the evidence of complainants. Only charges No.III & IV has been found proved against CSE which are not coming under the category of gross misconduct and are merely of trivial nature.

21. Thus, in view of the fore gone discussion and the law laid down by the Hon'ble Apex Court, I am of the considered view that the imposition of punishment of removal from service to the Petitioner vide proceeding dated 29.12.2015 by the Respondent Management is disproportionate and not commensurate to the charges. Therefore, the order of punishment of removal from service is liable to be altered into a lesser punishment as per Bi-partite settlement dated 10.4.2002.

Thus, Points No.II & III are decided accordingly.

22. **Point No.IV**:- In view of the finding given at Points No.I, II and III, in this award, the punishment of removal of the Petitioner from service inflicted vide proceeding dated 29.12.2015, by Respondent Management is held in gross violation of provision contained under Bi-partite settlement dated 10.4.2002. As far as jurisdiction of Tribunal to interfere into the order of punishment imposed by Disciplinary Authority is concerned, I would like to make reference of the provision contained under Sec.11A of the I.D. Act, 1947 wherein it is provided that,

"11A. [Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.

- Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require: Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter. "

Thus, in view of the provision contained under Sec.11A, wherein power has been conferred upon the Tribunal to interfere in the order of Disciplinary Authority, in the facts and circumstances of this case, I am of the considered view that in the facts and circumstances of the case and keeping in view the nature of charges proved against the Petitioner, a lesser punishment in lieu of the removal of the Petitioner from service be awarded. I ordered accordingly.

Thus, Point No.IV is answered in favour of the workman.

AWARD

In the result, claim petition is answered as under:-

a) The claim petition filed by the Petitioner is partly allowed.

b) The imposition of punishment of removal vide order No.DPC/R-II/234 dated 29.12.2015 of the Petitioner Sri D. Mabu Subhani Basha is hereby set aside and punishment order is modified to the lesser punishment of "censure" for the misconduct committed under the charge Nos. III and IV as per Bi-partite settlement dated 10.4.2002.

c) Respondent is directed to reinstate the Petitioner Sri D. Mabu Subhani Basha into service from the date of his removal i.e., 29.12.2015 with 50% back wages and with all consequential benefits.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 9th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1940.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **इंडियन बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (10/2023) प्रकाि ात करती है।

[सं. एल–12011/12/2023-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1940.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.10/2023*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Indian Bank their workmen.

[No. L-12011/12/2023-IR- (B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 29th day of July, 2024

INDUSTRIAL DISPUTE No. 10/2023

Between:

The President,

Indian Bank Employee's Union (AP & TS)

Banjarasadan Street No.15,

Himyathnagar,

Hyderabad-500029.

.. ….Petitioner

AND

The Dy. General Manager & Zonal Manager,

Indian Bank, Zonal Office Liberty Plaza,

Himayat Nagar,

Hyderabad-500029

… Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/12/2023 (IR(B-II)) dated 16.03.2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

1. "Whether the applicant in the present dispute has the locus standi to raise the dispute considering the Allahabad Bank Employees Union, AP & TS has merged with the Indian Bank Employees Union?'
2. 'Whether the demand raised by Allahabad Bank Employees Union vide letter dated 25.02.2022 regarding Memorandum of Settlement dated 24.01.2012 signed between the Management of Allahabad Bank by which the selection process of Special Assistant and Head Cashier-II Posts has stopped without completion is binding on the transferee bank vide Amalgamation of Allahabad Bank into Indian Bank Scheme, 2020, Published vide Notification No. G.S.R. 156(E), dated 04.03.2020 is proper, legal and justified. If yes, what relief the workers concerned is entitled to and what other directions, if any, are necessary in this matter?'

The reference is numbered in this Tribunal as I.D. No. 10/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 29th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 10 अक्तूबर, 2024

का.आ. 1941.—औघोगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औघोगिक विवाद में केन्द्रीय सरकार औघोगिक अधिकरण/श्रम न्यायालय, 1 दिल्ली के पंचाट (126/2023) प्रकाि ित करती है।

[सं. एल–12011/12/2023-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2024

S.O. 1941.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.126/2023*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No -1 Delhi* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank and their workmen.

[No. L-12011/12/2023-IR- (B-I)]
SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No. 126/2023

Sh. Sukhpal Singh S/o Sh. Sohan Lal,
Through All India General Kamgar Union,
In front of DSIDC Shades, Okhla Phase-2,
New Delhi- 110020.

Workman…

Versus

1. The Director, HDFC Bank,
   HDFC House, HT Parekh Marg, 165-166,
   Backbay Reclamation, Churchgate,
   Mumbai-400020
2. Also at HDFC Bank,
   Mayur Kunj Community Center, 47, GF, Mathura Road,
   New Delhi-110025

3. The Managing Director,
Sunrise Integrated Facilities Private Limited,
B-316, Spazedge Towers, Sector – 47, Sohna Road,
Gurgaon (Haryana)- 122018.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No-L-12011/12/2023-IR(B-I)) dated 19.05.2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the demand raised by All India General Kamgar Union vide letter dated nil regarding reinstatement in services of Sh. Sukhpal Singh S/o Sh. Sohan Lal which has been terminated by the management of HDFC Bank, New Delhi is proper, legally and/or justified? If yes, what relief Sh. Sukhpal Singh S/o Sh. Sohan Lal is entitled to and what directions, if any, are necessary in the matter?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 22.08.2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1942.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (202/2014) प्रकाि ात करती है।

[सं. एल–12011/53/2014-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1942.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.202/2014*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/53/2014-IR- (B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 08th day of July, 2024

INDUSTRIAL DISPUTE No. 202/2014

Between:

The General Secretary,

All India Safai Amador Congress,

1382, Panajabgada,

Ramavaram-507118,

Khammam Dist.

.. ….Petitioner

AND

1. The Asst. General Manager,
   SBI, Regional Office,
   Kakinada
2. The Chief General Manager,
   State Bank of India,
   Local Head Office, Koti,
   Hyderabad … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeet Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.L-12011/53/2014 (IR(B-I)) dated 29.09.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of State Bank of India , Samalkota, Branch of East Godavari District Andra Pradesh in terminating the service of Smt. B. Dhanamma, part time Safai Karmachari/Scavenger is fair, proper and justified. If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 202/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 8th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1943.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एपी ग्रामीण विकास बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (24/2023) प्रकाि ित करती है।

[सं. एल–12025/01/2024-आई.आर. (बी-I)-222]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1943.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 24/2023*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of AP Gramin Vikas Bank their workmen.

[No. L-12025/01/2024-IR- (B-I) -222]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 29th day of July, 2024

INDUSTRIAL DISPUTE No. 24/2023

Between:

Kakara Appa Rao,

Chandrampeta Village,

Vizianagaram,

Andra Pradesh-535215.

.Petitioner

AND

AP Gramin Vikas Bank,

Pedamajjipalem Branch,

Pedamajjipalem Village

Gantyada mandal,

Vizianagaram, A.P-535215.

…Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No.7/4/2023-B1 dated 25.08.2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of AP Gramin Vikas Bank, Pedamajjipalem Branch, Vizianagaram in terminating the services of Sri Kakara Appa Rao with effect from 25.09.2017 is legal and justified ? If not,

what relief the concerned workman is entitled to ?

The reference is numbered in this Tribunal as I.D. No. 24/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 29th day of July, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1944.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स इंडियन इंडस्ट्रियल सिक्योरिटी सर्विस प्रा. लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 1 दिल्ली** के पंचाट (264/2018) प्रकाि ात करती है।

[सं. एल–12025/01/2024-आई.आर. (बी-I)-223]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1944.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 264/2018*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Delhi* as shown in the Annexure, in the industrial dispute between the management of M/s Indian Industrial Secrurity Service Pvt Ltd their workmen.

[No. L-12025/01/2024-IR- (B-I) -223]
SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1

ROOM NO.207, ROUSE AVENUE COURT COMPLEX,

NEW DELHI.

DID No. 264/2018

Shri Rakesh S/o Shri Suraj Bhan

Through Delhi Pradesh Factory & Daily Labour Congress (Regd),

627, Baba Faridpuri, West Patel Nagar,

New Delhi-110008

Workman…

Versus

1. M/s Indian Industrial Security Service Pvt. Ltd.,
C.R.W.C. Godown No.2, Railway Cement Riding,
Shakur Basti, New Delhi.

2. Central Rail Warehouse Company,
Shakurbasti, New Delhi.

Management…

AWARD

1. This is an application Under Section 2A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 04.11.2016 by the management which be declare illegal and unjustified and he be reinstated with full back wages, it is the case of the applicant/workman that he has been working with the management. He has not been provided any legal facilities. He was illegally terminated from his service on 04.11.2016 without any rhyme or reason and without conducted any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Management No.2 is not appearing since long therefore they are proceeded ex-parte. However, Management no.1 appeared and filed the rebuttal written statement. After that, rejoinder was filed and issues were framed. And after that, case was listed for claimant listed on 04.12.2019. Thereafter, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant have not appeared to substantiate his claim.

3. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 22.08.2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1945.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एचडीएफसी बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 1 दिल्ली** के पंचाट (231/2022) प्रकाि ात करती है।

[सं. एल–12012/02/2022-आई.आर. (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1945.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.231/2022*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Delhi* as shown in the Annexure, in the industrial dispute between the management of M/s HDFC Bank Limited their workmen.

[No. L-12012/02/2022-IR- (B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1, NEW DELHI.

ID No. 231/2022

Sh. Dinesh Singh S/o Sh. Rajbeer Singh,

Through Indian National Migrant Worker's Union (Regd.)

1770/8 3rd Floor Govind Puri Extension, Main Road,

Kalkaji, New Delhi- 110019

Workman…

Versus

1. M/s HDFC Bank Limited,
   (i) 9th-10 Floor, Express Buildingm Bahadur Shah Marg,
   New Delhi-110002
   (ii) South Extension Part-I, New Delhi – 110003
2. M/s Bopari's Martial Security Private Limited,
   Through Sh. Gagan Deep, 16 MIG, Shopping Center,
   Near Vatika Apartment Maya Puri,
   New Delhi – 110064.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No-L-12012/02/2022-IR(B-I)) dated 13.07.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the demand of the Indian National Migrant Workers' Union in respect of the workman Shri Dinesh Singh S/o Sh. Rajbeer Singh as per his letter dated 17.12.2019 (copy enclosed) working under the contractor M/s bopari's Martial Security Pvt. Ltd. in the establishment of HDFC Bank Ltd. is fair legal & justified? If yes, what relief the workman is entitled to?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 22.08.2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1946.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **निदेशक, राष्ट्रीय औद्योगिक इंजीनियरिंग संस्थान, पवई, मुंबई,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री गणेश एल. भूयाल, कामगार** ,के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, मुंबई, पंचाट (संदर्भ संख्या **Ref. no.CGIT-2/1of 2019**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल–42025/07/2024-176-आई.आर. (डीयू)]

दिलीप कुमार , अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1946.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. no.CGIT-2/1 of 2019) of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, National Institute of Industrial Engineering, Powai, Mumbai, and Shri Ganesh L. Bhuyal, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-42025/07/2024-176-IR- (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

APPLICATION.REFERENCE CGIT-2/01 of 2019

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

NATIONAL INSTITUTE OF INDUSTRIAL

ENGINEERING (NITIE).

The Director, Natio`nal Institute of Industrial Engineering,

NITIE Campus, Vihar Lake Road, Powai,

Mumbai- 400087.

AND

THEIR WORKMEN.

Mr. Ganesh L. Bhuyal,

Resident of C/o. Shramjivi Kamgar Union,

Near Panchal Steel Industries,

Mogra Village Road, Andheri (East),

Mumbai – 400069.

APPEARANCES:

Party No. 1	:	Mr. Neel G. Helekar
		Advocate
Party No. 2	:	Mr. D. V. Shinde
		Representative

AWARD

(Delivered on 28-08-2024)

This is an application Reference u/s. 2A of the ID Act, filed by the Second Party against the termination and sought relief of reinstatement with continuity of service with full back wages against the First Party. Director/Registrar National Institute of Industrial Engineering (NITIE) (campus).

During pendency of the application Reference, the Second Party moved an application Ex-9 on 17.12.2021 and thereby requested to withdrawn his name from the proceedings. Thereafter the Second Party remained absent before the Tribunal. On 22.05.2024 notice was issued to the Second Party returnable on 09.08.2024. The notice was served but the Second Party did not turn up before the Tribunal.

The Counsel for the First Party gave no objection for such withdrawn.

In view of this, the application Reference is disposed off as withdrawn.

Hence, I pass the following Award-

AWARD

i. The application Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The Award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 28-08-2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1947.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **निदेशक, राष्ट्रीय औद्योगिक इंजीनियरिंग संस्थान, पवई, मुंबई,** के प्रबंधतंत्र के संबद्ध नियोजकों और **सुश्री कलावती मुथु, कामगार** ,के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2,मुंबई,पंचाट(संदर्भ संख्या **Ref.no.CGIT-2/04 of 2019**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल–42025/07/2024-177-आई.आर. (डीयू)]

दिलीप कुमार , अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1947.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. no. CGIT-2/04 of 2019) of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, National Institute of Industrial Engineering, Powai, Mumbai, and Shri Kalawati Muthu, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-42025/07/2024-177-IR- (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

APPLICATION.REFERENCE CGIT-2/04 of 2019

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

NATIONAL INSTITUTE OF INDUSTRIAL

ENGINEERING (NITIE).

The Director, National Institute of Industrial Engineering,

NITIE Campus, Vihar Lake Road, Powai,

Mumbai- 400087.

AND

THEIR WORKMEN.

Ms. Kalawati Muthu,

Resident of C/o. Shramjivi Kamgar Union,

Near Panchal Steel Industries,

Mogra Village Road, Andheri (East),

Mumbai – 400069.

APPEARANCES:

Party No. 1	:	Mr. Neel G. Helekar
		Advocate
Party No. 2	:	Mr. D. V. Shinde
		Representative

AWARD

(Delivered on 28-08-2024)

This is an application Reference u/s. 2A of the ID Act, filed by the Second Party against the termination and sought relief of reinstatement with continuity of service with full back wages against the First Party. Director/Registrar National Institute of Industrial Engineering (NITIE) (campus).

During pendency of the application Reference, the Second Party moved an application Ex-9 on 12.02.2021 and thereby requested to withdrawn his name from the proceedings. Thereafter the Second Party remained absent before the Tribunal. On 22.05.2024 notice was issued to the Second Party returnable on 09.08.2024. The notice was served but the Second Party did not turn up before the Tribunal.

The Counsel for the First Party gave no objection for such withdrawn.

In view of this, the application Reference is disposed off as withdrawn.

Hence, I pass the following Award-

AWARD

i. The application Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The Award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 28-08-2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1948.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **निदेशक, राष्ट्रीय औद्योगिक इंजीनियरिंग संस्थान, पवई, मुंबई,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री एस. बी. बसवत, कामगार** ,के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, मुंबई, पंचाट (संदर्भ संख्या **Ref. no.CGIT-2/8 of 2019**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल–42025/07/2024-178-आई.आर. (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1948.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. no.CGIT-2/8 of 2019) of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, National Institute of Industrial Engineering, Powai, Mumbai, and Shri S. B. Baswat, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-42025/07/2024-178-IR- (DU)]
DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

APPLICATION.REFERENCE CGIT-2/08 of 2019

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

NATIONAL INSTITUTE OF INDUSTRIAL

ENGINEERING (NITIE).

The Director, National Institute of Industrial Engineering,

NITIE Campus, Vihar Lake Road, Powai,

Mumbai- 400087.

AND

THEIR WORKMEN.

Mr. S. B. Baswat,

Resident of C/o. Shramjivi Kamgar Union,

Near Panchal Steel Industries,

Mogra Village Road, Andheri (East),

Mumbai – 400069.

APPEARANCES:

Party No. 1	:	Mr. Neel G. Helekar Advocate
Party No. 2	:	Mr. D. V. Shinde Representative

AWARD

(Delivered on 28-08-2024)

This is an application Reference u/s. 2A of the ID Act, filed by the Second Party against the termination and sought relief of reinstatement with continuity of service with full back wages against the First Party. Director/Registrar National Institute of Industrial Engineering (NITIE) (campus).

During pendency of the application Reference, the Second Party moved an application Ex-8 on 30.12.2021 and thereby requested to withdrawn his name from the proceedings. Thereafter the Second Party remained absent before the Tribunal. On 22.05.2024 notice was issued to the Second Party returnable on 09.08.2024. The notice was served but the Second Party did not turn up before the Tribunal.

The Counsel for the First Party gave no objection for such withdrawn.

In view of this, the application Reference is disposed off as withdrawn.

Hence, I pass the following Award-

AWARD

i. The application Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The Award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 28-08-2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1949.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **निदेशक, राष्ट्रीय औद्योगिक इंजीनियरिंग संस्थान, पवई, मुंबई,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री हल्या आर. कोलेकर, कामगार,**के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, मुंबई, पंचाट (संदर्भ संख्या **Ref.no.CGIT-2/10 of 2019**) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल–42025/07/2024-179-आई.आर. (डीयू)]

दिलीप कुमार , अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1949.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref.no. CGIT-2/10 of 2019) of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, National Institute of Industrial Engineering, Powai, Mumbai, and Shri Halya R. Kolekar, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-42025/07/2024-179-IR- (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

APPLICATION.REFERENCE CGIT-2/10 of 2019

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

NATIONAL INSTITUTE OF INDUSTRIAL

ENGINEERING (NITIE).

The Director, National Institute of Industrial Engineering,

NITIE Campus, Vihar Lake Road, Powai,

Mumbai- 400087.

AND

THEIR WORKMEN.

Mr. Halya R. Kolekar,

Resident of C/o. Shramjivi Kamgar Union,

Near Panchal Steel Industries,

Mogra Village Road, Andheri (East),

Mumbai – 400069.

APPEARANCES:

Party No. 1 : Mr. Neel G. Helekar

Advocate

Party No. 2 : Mr. D. V. Shinde

Representative

AWARD

(Delivered on 28-08-2024)

This is an application Reference u/s. 2A of the ID Act, filed by the Second Party against the termination and sought relief of reinstatement with continuity of service with full back wages against the First Party. Director/Registrar National Institute of Industrial Engineering (NITIE) (campus).

During pendency of the application Reference, the Second Party moved an application Ex-7 on 17.12.2021 and thereby requested to withdrawn his name from the proceedings. Thereafter the Second Party remained absent before the Tribunal. On 22.05.2024 notice was issued to the Second Party returnable on 09.08.2024. The notice was served but the Second Party did not turn up before the Tribunal.

The Counsel for the First Party gave no objection for such withdrawn.

In view of this, the application Reference is disposed off as withdrawn.

Hence, I pass the following Award-

AWARD

i. The application Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The Award be sent to the Government.

SHRIKANT K. DESHPANDEL, Presiding Officer

Date: 28-08-2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1950.— औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **परियोजना निदेशक, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण; मेसर्स दिनेश चंद्र अग्रवाल इंफ्रास्ट्रक्चर लिमिटेड; मेसर्स ईगलदीप कोलाघाट ओएमटी प्रोजेक्ट प्राइवेट लिमिटेड; मेसर्स मायर्या एंटरप्राइज; मेसर्स गौर गुचैत सर्विस प्रोवाइडर्स,** के प्रबंधतंत्र के संबद्ध नियोजकों और **महासचिव, बीएसएनएल, राष्ट्रीय ठीका वर्कर्स कांग्रेस,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय,कोलकाता,पंचाट(संदर्भ संख्या **Ref.NO.11 of 2021**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024को प्राप्त हुआ था।

[सं. एल–40011/2/2021-आई.आर. (डीयू)]

दिलीप कुमार , अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1950.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.11 of 2021) of the **Central Government Industrial Tribunal cum Labour Court, Kolkata,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager (P&A), West Bengal Telecom Circle, BSNL, Kolkata ;The Chief General Manager, Calcutta Telephones, Kolkata, and The General Secretary, BSNL, National Thika Workers' Congress,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-40011/2/2021-IR- (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 11 OF 2021

Parties : Employers in relation to the management of

1. **Chief General Manager (P&A), West Bengal Telecom Circle, BSNL, Kolkata,**
2. **Chief General Manager, Calcutta Telephones,**

Kolkata.

Versus

The General Secretary, BSNL, National Thika Workers' Congress.

Appearance :

On behalf of West Bengal Telecom Circle, BSNL, Kolkata: Mr. Rajib Mukherjee, Ld. Advocate.

On behalf of Calcutta Telephones, Kolkata: Mr. Amaresh Bag, Ld. Advocate.

On behalf of the Union : Absent.

Dated: 3rd October, 2024

AWARD

Ld. Counsels for West Bengal Telecom Circle, BSNL and Calcutta Telephones are present to conduct the hearing on the point of maintainability of the present reference case. Unfortunately, like on previous two occasions the union which has espoused the present dispute is found absence and none appeared from the side of the union to conduct the hearing. Ld. Counsel Mr. Mukherjee files track report along with a postal receipt and submits that he has duly served the copy of the petition whereby he has challenged the maintainability of the present case to the concerned union. Let the track report with the postal receipt be taken on record.

The absence of the union for three consecutive dates give rise to an inference that union is no longer interested to pursue with the dispute raised by it. Record shows the case was otherwise fixed for adducing evidence from the union before the management of Telecommunication has filed petition challenging the maintainability of the present dispute, copy of which has been duly served upon the union as per the track report filed by Mr. Mukherjee.

Be that as it may, by order No. L-40011/2/2021 –IR(DU) dated 04-08-2021, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

"Whether agreement (s) between BSNL, Calcutta Telephones/ BSNL, West Bengal Telecom Circle and its contractor to engage contract workers is sham? If yes, whether the demand of BSNL-National Thika Workers' Congress vide letter dt.24-02-2020 to the management of BSNL for regularisation of contract labourers (no.265 contract workers-marked as Annexure) engaged in respect BSNL, Calcutta Telephones and BSNL, West Bengal Telecom Circle is proper, legal and justified? If yes, to what relief the concerned contract workers are entitled to? What other directions, if any, are necessary in the matter?"

It is true the union which has espoused the dispute has been pursuing the above dispute by filing claim statement and rejoinder. The principal employer too has been contesting the dispute raised by the union by filing

written statement. But the union which has raised the dispute has stopped appearing before the Tribunal and conduct the case by adducing evidence. Therefore, a presumption can be drawn the union which has espoused the dispute is not inclined to proceed with the dispute.

In the record there lies uncorroborated claim statement and rejoinder filed by the union. In the absence of supporting materials/evidence both oral and documentary, this Tribunal is unable to decide the issue under reference only on the basis of uncorroborated pleadings lying in the record.

In view of the above, this Tribunal has no other option to pass a 'no dispute award'. Accordingly, Reference Case no.11 of 2021 is disposed of by passing a "No Dispute Award".

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1951.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (18/2017) प्रकाि ित करती है।

[सं. एल–39025/01/2024-आई.आर. (बी -II)-38]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.18/2017*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India their workmen.

[No. L-39025/01/2024-IR- (B-II)-38]
SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 13th day of August, 2024

INDUSTRIAL DISPUTE L.C.No. 18/2017

Between:

Sri R. Prudvi Raj,

S/o R. Prasad,

R/o D.No.10-1/B, Karankute,

Tandur Mandal,

Ranga Reddy District. …… Petitioner

AND

1. The Disciplinary Authority /
   Chief Manager, Kalyannagar Branch,
   Hyderabad – 500 038.
2. Central Bank of India,
   Dy. Regional Office,

Bank Street, Hyderabad – 500 095. … .Respondents

Appearances:

For the Petitioner : M/s. Sudheer Lingala, A. Satyavathi & G. Saritha, Advocates

For the Respondent: None

AWARD

Sri R. Prudvi Raj who worked as Head Cashier (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Central Bank of Indiaseeking for declaring the proceeding dated 23.12.2015 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

It is submitted that he joined the service of the Respondent bank on 19.9.2011 as Single Window Operator-A (SWO-A) and subsequently the Respondent promoted the Petitioner as Head Cashier-2 on 28.08.2014. It is submitted that from the date of joining the service the Petitioner worked with the utmost satisfaction of the Respondent bank till he was illegally dismissed from the service by the 1st Respondent vide order KLN:HRD:DAD:15-16: dated 23.12.2015. It is further submitted that while he was working at Sangareddy Branch, the 2nd Respondent issued suspension order dated 23.06.2015 with the allegation that on surprise check done by the Sri Alok Kumar, Asst. Manager, Patancheru Branch, there was a shortage of Rs. 1.64 Lacs in the opening cash of the Branch on 22.06.2015, where the Petitioner was working as Head Cashier. It is submitted that the Dy Regional Manager issued Memo dated 14.07.2015 and after one and half month issued the Charge Sheet dated 26.08.2015 alleging that a surprise check was done by the Sri Alok Kumar, Asst. Manager, Patancheru Branch and there was a shortage of Rs. 1.64 Lacs in the opening cash of the Branch on 22.06.2015, where the Petitioner was working as Head Cashier and the Petitioner left the branch without any explanation, intimation or permission from the competent authority, further mentioned that the Enquiry Officer is appointed to hold the departmental enquiry. It is submitted that the Respondent Bank without giving the opportunity to the Petitioner to submit his explanation to the Charge Sheet ordered for the Departmental Enquiry, which is illegal, unjust, contrary to law and against the principals of natural justice. It is submitted that a stage managed enquiry was conducted by the Enquiry Officer, wherein all the reasonable opportunity to defend the case was denied to the Petitioner. It is submitted that the Enquiry was conducted only as an the empty formalities. It is further submitted that the 1st Respondent made the Petitioner to believe that they are conducting the enquiry to complete the formalities and after completing the enquiry they will lift the suspension. It is submitted that believing the 1st Respondent version the Petitioner accepted the charges in the Enquiry. The Petitioner submits that the enquiry has been conducted with the intention that the Petitioner should not defend his case suitably. Therefore action adopted by the Enquiry Officer is illegal, unjust, contrary to law and in violation of Principals of Natural Justice, hence on this ground alone the enquiry is liable to be vitiated for the material irregularity. The Petitioner submits that on the basis of the perverse enquiry report the 1st Respondent bank dismissed the Petitioner from the service by order dated 23.12.2015. It is submitted that while he was working on 22.06.2015 a surprise check was done and it is informed to the Petitioner that there is a shortage of cash of Rs.1.65 Lacs in the opening cash of the Branch. It is submitted that the Branch Manager, Asst. Manager who has done the surprise check started blaming the Petitioner for shortage of the Cash without investigating on who has taken the cash from the locker. The Branch Manager and others scared the Petitioner that if he fails of pay the shortage of amount they will give the criminal complaint against the him for committing the theft and they will also remove him from the service, and they asked the Petitioner to arrange the amount and sent him out from the bank. It is totally false to state he left the bank abruptly during office hours, without taking the permission from the competent Authority and the said allegation is an afterthought of the Respondent bank as nothing was mentioned in the suspension order about the Petitioner leaving the bank. It is submitted that after leaving the bank he went to his brother who is the Asst. Manager, in Indian Bank, Mahaboobnagar Branch and when the Petitioner's brother contacted the Respondent Sangareddy Branch Manager, it is informed by the Branch Manager that as the Petitioner is the Head Casher, prima face they are blaming the Petitioner and if the amount is not paid by the Petitioner they will book the criminal case against the Petitioner and they will terminate him from the service and the Branch Manager further stated that if the amount is paid the Petitioner will be continued in the service and they will further investigate the issue and if some other found guilty the amount will be refunded to the Petitioner. The Petitioner submits that under duress, when the Respondent bank threatened that they will give the criminal complaint and terminate the Petitioner from the service, he has paid the amount to the bank even though he has not taken the said alleged amount. It is submitted that the procedure of depositing the cash at the end of the day is that the Head Cashier submits details of receipts and payments to the Asst. Manager and the Asst. Manager tallies the receipts and payment with the cash available and signs the Cash Memorandum and both the Head Cashier and Asst. Manager keeps the cash in the locker and both of them have an individual keys. Further, it is submitted that on 20.06.2015 i.e., on Saturday the Asst. Manager checked the receipts

and withdrawals of the cash and signed the Cash Memorandum and kept the cash in the locker and the locker was locked by the Petitioner and the Asst. Manager with their respective keys on 20.06.2015 and there was no shortage of cash at that time. The Petitioner submits that as per procedure on 22.06.2015 he has taken the amount from the locker in the presence of the Asst. Manager by opening one locker with their respective locker keys and at that time also there is no shortage of the cash in the locker. It is submitted that as he was sitting in the cash counter from the morning and never went out, the question of taking the amount from the bank does not arise and it was explained to the Branch Manager by the Petitioner, but they are reluctant to listen to the version of the Petitioner and started blaming the Petitioner for shortage of cash. It is submitted that in the letter dated 25.06.2015 he has accepted the charges and written the same as per the version of the Branch Manager of Sangareddy only when the Branch Manager of Sangareddy has assured that they will raise the suspension order and permit the Petitioner to discharge his duties. It is submitted that the bank has unilaterally and arbitrarily concluded that the Petitioner has taken the amount from the bank without there being any proof to show that when and how the Petitioner has taken the amount from the bank. It is submitted that the Petitioner being Junior , was made a scapegoat, and did not made any investigation how there is shortage of amount in the locker. This clearly shows that the Petitioner is being victimized for the wrong doing of the other for the reasons best known to the Respondent bank and no criminal case was booked. The Petitioner submits that the Respondent bank has not placed any documents before the enquiry officer to prove that the Petitioner has committed the alleged misconduct, and the Respondent have depended only on the letter which the Petitioner has given accepting the allegations. It is submitted and reiterated that he has not committed any misconduct as alleged by the Respondent bank. The Petitioner submits that from the date of illegal dismissal he remained unemployed and could not secure any alternative employment inspite of his best efforts as the allegation remained as a stigma on the Petitioner. Therefore, prayed to set aside the removal order passed by the 1st Respondent vide order dated 23.12.2015 and direct the Respondents to reinstate the Petitioner into service with continuity of service and all attendant benefits with full back wages etc..

4. Notice served to the Respondent through registered post but Respondent did not turn up and file counter. Therefore, the proceeding of the case was conducted vide order dated 5.6.2023, ex-parte against Respondent.

5. In evidence Petitioner has filed affidavit of chief statement wherein he has reiterated the averments made in the claim statement. He has also filed the documents in support of his claim that has not been marked or exhibited by the witness.

6. The Petitioner has filed the final order of Disciplinary Authority dated 23.12.2015 which reflects that the Disciplinary Authority of Respondent has dismissed the Petitioner from service in terms of para(6)(a) of Memorandum of Settlement on disciplinary action and procedure thereof for Award Staff Agreement dated 10.4.2002. This order of dismissal has been challenged by the Petitioner in this petition. Petitioner in his evidence of chief affidavit has stated that in his letter dated 25.6.2015, he has accepted the charges and written the same as per the version of the Branch Manager, Sangareddy when the Branch Manager, Sangareddy has assured that they will raise the suspension order and permit him to discharge his duties. Further witness has stated that Respondent with malafide intention falsely assured him to deposit the amount and to accept the charges, and believing the same, in the letter dated 25.6.2015, Petitioner has accepted the charges before the enquiry. Further, in para 19.1, of his chief statement affidavit Petitioner witness has submitted that Respondent bank has not placed any documents before the Enquiry Officer to prove that he has committed the alleged misconduct. Respondent have depended only on the letter which he has given accepting the allegations. Further Petitioner in his chief affidavit has also stated that Branch Manager and others scared him that if he fails to pay the shortage of amount they will give the criminal complaint against him for committing the theft and they will also remove him from the service. Further, witness states that under duress, when the Respondent bank threatened him that they will give criminal complaint and terminate the Petitioner from the service, Petitioner paid the amount to the bank even though he has not taken the said alleged amount.

7. Admittedly, Petitioner was working as Head Cashier in the Respondent branch. On 26.6.2015, during a surprise inspection done by Sri. Alok Kumar, Assistant Manager, Patancheru Branch there was a shortage of Rs.1,64,000/- in the opening cash of the Branch on 22.6.2015, for which memo dated 14.7.2015 was issued to the Petitioner and after one and half month he was issued with the chargesheet dated 26.8.2015 alleging that during the surprise check done by Sri Alok Kumar, Assistant Manager, there was a shortage of Rs.1,64,000/- of the branch on 26.6.2015. Enquiry was conducted against Petitioner after giving opportunity of hearing to the Petitioner. The Petitioner submitted that he has been held guilty of charges on the basis of his written submission dated 25.6.2015 wherein he has accepted the allegation of the charge sheet. Further, Petitioner submitted that under duress when the Respondent management threatened to give criminal complaint against him and to terminate him, he has paid the amount to the bank. From the statement of Petitioner in chief affidavit it is undisputed that on surprise check done by Assistant Manager, on 14.7.2015, there was shortage in opening balance of cash amounting to Rs.1,64,000/-. Since the Petitioner was Head Cashier and custodian of that money of the bank, there was no possibility for other employees to misappropriate the same from bank. Moreover, Petitioner has admitted the charge of misappropriation of said cash from bank and he also remitted the same to the bank. When the plea of the Petitioner that under duress he has admitted the charge and deposited the money is not tenable because at another place in his statement he stated that, on the promise of lifting his suspension assured by the Management, he admitted the guilt. Thus, it is

undisputedly established that Petitioner has misappropriated the amount of Rs.1,64,000/- from the branch of the Respondent bank where he was posted as Head Cashier and subsequently he has deposited the said misappropriated amount in the bank. It is settled law that the facts admitted need not be proved by any evidence. The charge of misappropriate of amount has been proved on the basis of the letter dated 25.6.2015 written by of the Petitioner, wherein he has accepted charge of misappropriation of Rs.1,64,000/- from the branch of Respondent Bank and subsequently he has deposited the same in bank. The plea of the Petitioner that he has deposited shortage of amount in the bank from his pocket under duress and threatening given by the Respondent is not believable under the given circumstances as the amount of Rs.1,64,000/- is not a small amount which an employee could deposit merely on the basis of threat or under duress when he deem himself not guilty of misappropriation of said amount. Therefore, the plea of the Petitioner is not maintainable in this regard.

8. The Disciplinary Authority's final order dated 23.12.2015 would reveal that the Authority has passed the dismissal order of the Petitioner, without notice in terms of para (6)(a) of the Memorandum of Settlement, on disciplinary action procedure thereof for Award Staff Agreement dated 10.4.2002. The terms and conditions of the Bi-partite settlement dated 10.4.2002, is equally binding upon the Petitioner. The para (6) of Bi-partite settlement contains the provision that an employee found guilty of gross misconduct, may be dismissed without notice. Section 5 of the Bi-partite settlement dated 10.4.2002 define the expression gross misconduct as such Acts and omissions on the part of the employee that has been enumerated under the sub head (d), sec.5(d) of Bi-partite settlement provides:-

"Willful damage or attempt to cause damage to the property of the bank or any of its customers".

9. Therefore, in view of the definition of grave misconduct given under Clause 5(d) of Bi-partite settlement dated 10.4.2002 in the present matter Petitioner has also caused willful damages to the property of the bank by misappropriating the amount of Rs.1,64,000/- and subsequently on inspection he admitted his guilt in his letter and also deposited the said amount in the bank. As regards plea of the Petitioner that he has returned the said amount to the bank, in this context it is settled law that, even temporary misappropriation of the property or cash of the bank would amounts to gross misconduct as per terms of Bi-partite settlement dated 10.4.2002.

10. It is settled law that even if the case is proceeding ex-parte against Respondent it has to be decided on merits on the basis of evidence oral or documentary, on record. Therefore, the plea of the Petitioner that Respondent has not produced any documents in support of the charge is not tenable. There is ample proof of misconduct of the Petitioner on record as regard shortage of opening balance as well as deposit of said amount by Petitioner to the Bank.

11. Further, Petitioner has taken the plea that the punishment of dismissal inflicted upon him, vide order dated 23.12.2015 by Disciplinary Authority is disproportionate and not commensurate to the charge levelled against him. In this context, I would like to make reference of relevant decisions of Hon'ble Supreme Court of India, **in the case of Divisional Controller, NEKRTC vs. Amaresh, AIR 2006, SC page 2730, wherein Hon'ble Supreme Court of India have held,** *"amount misappropriated is not relevant to decide the quantum of punishment and it is always a question of loss of confidence by the management in the employee that matters."*

Further, in the case of **Chairman and Managing Director, United Commercial Bank vs. PC Kakkar AIR 2003 SC page 3571, Hon'ble Supreme Court of India have held**, *"Bank officer is required to exercise higher standards of honesty and integrity -Defence that there was no loss of profit resulting – not available when delinquent employee acted without authority- High Court setting aside as shockingly disproportionate without indicating reasons – Amounts to denial of justice- fact that co-delinquent is given lesser punishment – can also be no ground for interference."*

12. Similarly, in the present case, the Petitioner has been found guilty of misappropriation of big amount of Rs.1,64,000/- of Respondent Bank. Therefore, Bank management has lost his confidence in the Petitioner as regard to his integrity and honesty. Therefore, action taken by Respondent for dismissal of the Petitioner from service can not be said in any manner disproportionate and it is quite commensurate to the charge levelled against to him.

Further, i**n JP Jain Vs. Management of State Bank of India 1982 AIR page 673,** *the facts of the case are that the Appellant was working as cashier in the Meerut State branch of State Bank of India, the complainant, came to bank to receive his pass book. On receipt of pass book accountholder complained that he had withdrawn only Rs.500/- but there is entry of Rs.1500/- as shown in the passbook. The complainant reported matter to the Supervisor R K Gupta, and necessary documents pertaining to such withdrawal were examined and it was found that the complainant has given a letter of authority to the Appellant workman and authorizing to withdraw the amount Rs.500/-from his account. The said authority letter was for withdrawal of Rs.500/-, but, workman acting as cashier manipulated figure in the letter from Rs.500/- to Rs.1500/- and withdrawn the amount retained Rs.1000/- with him. In that case enquiry was held and the casual Appellant was dismissed from the job. In the case the alleged misconduct of the Appellant to produce forged documents and withdrew Rs.1500/- instead Rs.500/- and Rs.1000/- in excess of the amount which he was not authorized misappropriated it. In that case Appellant had submitted his confession letter and on the basis of the confession letter and substantial evidence he was terminated from the service and the Hon'ble Apex Court upheld the termination of the Appellant."* Therefore, plea of Petitioner that his letter of admission of

guilt is not admissible evidence is not tenable.

In the case of Darshan Singh Vs. Canara Bank CWP No.10458/ 2003 D.O.D. 6.4.2017 High Court held:

"the Court has rightly observed that oral evidence contrary to documentary evidence and entries has not to be believed this was the case defendant for proof of misconduct on documentary evidence and entries in the Saving Bank Account pass book and ledger folios etc.. The workman admitted that these entries made by him saying that it was made under bonafide mistake. Such act have serious propensities which when made public a bank might loss its reputation and confidence in investing public, not continue employment. It was the case of misappropriation. Even if it is classified as temporary misappropriation or temporary embezzlement both are bad of law. Workman therefore, cannot be absolved simply, by saying that entries were some bonafide mistake. In the opinion of Labour Court no lenience can be shown to the workman. Once the misconduct is proved in the enquiry conducted by employer, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimization."

Similarly, in the present matter there is ample proof of documentary evidence against the Petitioner that while he was working as a Head Cashier in the branch of Respondent Bank, the opening balance to an amount of Rs.1,64,000/- was found short, for which the Petitioner failed to give any explanation. However, Petitioner vide his letter dated 25.6.2015 has admitted his conduct of taking out the said amount and later on he deposited the same in the bank. All these documents in evidence prove the misconduct committed by Petitioner of misappropriation of the bank's fund. Therefore, the plea of the Petitioner that his letter of admission of guilt is not admissible in evidence, is not tenable.

13. Thus, in view of fore gone discussion and law laid down by the Hon'ble Apex Court, punishment of dismissal imposed upon the Petitioner by the Respondent Management for his misconduct as per Bi-partite settlement 10.4.2002 is not so shockingly disproportionate which may warrant interference. Therefore, order of Disciplinary Authority of the dismissal of Petitioner is not disproportionate. Hence, I am of the considered view that the claim statement filed by the Petitioner, is unfounded, without merit and liable to be dismissed and order passed by Disciplinary Authority of dismissal order of Petitioner is liable to be confirmed.

AWARD

The action of the Respondent Management in dismissing the services of the Petitioner Sri R. Prudvi Raj vide order dated 23.12.2015 is held legal and justified. The petition filed by the Petitioner stands dismissed being devoid of merits.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 13th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1952.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एपी ग्रामीण विकास बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (23/2023) प्रकाि ात करती है।

[सं. एल–12025/01/2024-आई.आर. (बी-I) -224]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 23/2023*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of AP Gramin Vikas Bank thei workmen.

[No. L-12025/01/2024-IR- (B-I) -224]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 29th day of July, 2024

INDUSTRIAL DISPUTE No. 23/2023

Between:

Pavada Apparao,

Bonangi Village Gantyada Mandal,

Vizinagaram,

Andra Pradesh-535160.

. Petitioner

AND

A.P Gramin Vikas Bank,

Boddam Branch,

Vizinagaram,

Andra Pradesh-535160.

… Respondents

Appearances:

For the Petitioner : None

For the Respondent: None

AWARD

The Government of India, Ministry of Labour by its order No.7/6/2023-B1 dated 25.08.2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of State Bank of India and their workmen. The reference is,

SCHEDULE

Whether the action of the management of AP Gramin Vikas Bank, Boddam Branch, Vizianagaram in terminating the services of Sri Pavada Appa Rao with effect from 02.08.2017 is legal and justified? If not, what relief the concerned workman is entitled to?

The reference is numbered in this Tribunal as I.D. No. 10/2023 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 29th day of July, 2024

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1953.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 2** मुंबई_के पंचाट (01/2022) प्रकाि ात करती है।

[सं. एल–31011/03/2021-आई.आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 01/2022*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.2 Mumbai* as shown in the Annexure, in the industrial dispute between the management of Mumbai Port Trust their workmen.

[No. L-31011/03/2021-IR- (B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/01 of 2022

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

MUMBAI PORT TRUST

The Chairman,

Mumbai Port Trust,

Port Bhawan, S. V. Marg,

Mumbai- 400001.

AND

THEIR WORKMEN.

The General Secretary,

Mumbai Port Trust, Dock & General Employees' Union,

Port Trust Kamgar Sadan, Mazgaon,

Mumbai –400 010.

APPEARANCES:

Party No. 1 : Mr. Umesh Nabar
Advocate

Party No. 2 : Mr. V. D. Randive
Representative

AWARD

(Delivered on 26-07-2024)

1. This reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-31011/03/2021 – IR (B-II) dated 27.12.2021. The terms of reference given in the schedule are as follows:

i. "Whether the demand of Mumbai Port Trust Dock & General Employees' Union in respect of Legal Assistance i.e., Shri Vijay D. Randive, Sh. Satish S. Jadhav, Sh. Ganesh R. Pol, Smt. Mrinalini R. Kelkar, Sh. Pravin J. Gholap and Sh. Abdul Aziz Mohammed Kazi to repatriate or relieve them to their parent department is fair, legal and justifiable? If yes, what relief they are entitled to?"

ii. Whether the action of MbPT coercing/compelling the all Legal Assistant to file affidavit of evidence in any court for organizational interest is fair, legal and justified? If not, what relief the concerned workmen are entitled to?

iii. Whether the demand of Mumbai Port Trust Dock & General Employees Union that Mumbai Port Trust administration be stopped from initiating any disciplinary proceedings as regards to the matter in dispute during pendency of the conciliation proceeding is fair, legal and justified? If not, what relief the concerned workmen are entitled to?"

2. During proceeding the Secretary of Mumbai Port Trust Dock & General Employees Union filed an application for withdrawal of the Reference for want of prosecution. It is contended on behalf of the Second Party that, the dispute involved in the Reference has been already resolved therefore the Second Party Union desire to withdraw the Reference.

In view of this, the Reference is disposed off as withdrawn. No order as to costs. The proceeding is closed. An award be drawn accordingly.

ORDER

i. The Reference is answered in negative.

ii. The Second Party No. 2 is not entitled for any relief as claimed.

iii. No order as to costs.

iv. The award be sent to the Government.

SHRIKANT K. DESHPANDE, Presiding Officer

Date: 26-07-2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1954.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **कलकत्ता टेलीफोन्स, टेलीफोन भवन, कोलकाता,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजेश सिंह,कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय,कोलकाता,पंचाट(संदर्भ संख्या **Ref. no.41 of 2005**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024को प्राप्त हुआ था।

[सं. एल-40012/79/2005-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1954.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. no. 41 of 2005) of the **Central Government Industrial Tribunal cum Labour Court, Kolkata,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Calcutta Telephones, Telephone Bhawan, Kolkata, and Shri Rajesh Singh, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-40012/79/2005-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

Ref. NO. 41 of 2005

Parties : Employers in relation to the management of

Calcutta Telephones, Telephone Bhawan, Kolkata

VS

Mr. Rajesh Singh.

Appearance:

On behalf of Calcutta Telephones: , Mr. Sunil Kumar Karmakar, Ld. Advocate.

On behalf of the Workman: Mr. Rajendra Prasad, Ld. Advocate.

Dated: 3rd October, 2024

O R D E R

Vide order No. L-40012/79/2005–IR(DU) dated 26-09-2005, the Central Government, Ministry of Labour in exercise of power conferred under sub-section 1(d) and sub-section 2(A) of section 10 of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

"Whether Mr. Rajesh Singh, Casual Mazdoor who worked at 350/351 Exchange, Manicktala under Calcutta Telephones, since 1989 and got terminated from service w.e.f. 01-09-1996 has at all completed 240 days service in any of the year? If so, whether his dis-engagement from service as Casual Mazdoor w.e.f. 01-09-1996 amounted to retrenchment in violation of Industrial Disputes Act, 1947? Whether Mr. Rajesh Singh is entitled to re-instatement in Calcutta Telephones along with back wages and other attendant benefits etc.? If so, from what date? If not to what relief he is entitled?"

The case of the workman as per his claim statement is that he was engaged by Calcutta Telephones, at present known as BSNL, as a casual labour on 07-091988. That in the year 1988 he worked for 88 days and after 1989 till 31-08-1996 he worked for Calcutta Telephones/BSNL as casual Mazdoor by doing perennial nature of job. That he rendered more than 240 days in each calendar year from 1989 to 1996, but he was never considered for absorption or regularization in the permanent post of Peon by the Department and he was not provided with the benefits which was otherwise available to the permanent employees of the establishment.

Thus, he made a representation before the Govt. of India, Ministry of Tele-communication and before the Chief General Manager, Calcutta Telephones on several occasions for regularization and absorption, but all his prayers fell into deaf ears.

That for regularization and absorption he filed a case before the Central Administrative Tribunal being No. OA-1141/99 but he withdrew the same and the said case was disposed of on 13-08-2003. Then he filed a writ petition before the Hon'ble High Court being W.P. 16133(W) of 2003 for regularisation, but later he withdrew the same and accordingly the sad writ petition was disposed of for non-prosecution on 15-12-2004.

He has raised the present dispute as the management of BSNL denied regularization despite engaging him for more than 240 days in a particular calendar year. He was denied job of casual labour by the authority of BSNL w.e.f. 01-09-1996.

That due to sudden withdrawal of his service by the Calcutta Telephones he is passing his days in acute financial crisis. That at the time of termination he used to get salary of Rs.1200 to 1400 depending upon the actual working days in every month.

That he has alleged that he has been retrenched from the service without extending any financial benefits as provided under the Industrial Disputes Act, 1947. Therefore, he has prayed for his reinstatement as casual Mazdoor along with full back wages.

Such case of the workman has been contested by the authority of BSNL by filing written statement and where it has categorically challenged the maintainability of the present case. It has alleged that the concerned workman was engaged on contract basis for a specific job during the year 1991-1992 and he was paid wages at the prevailing rate for Muster Roll Mazdoor for the period from April, 1991 to January, 1992. That he never worked continuously for more than 240 days in any calendar year.

The concerned workman being a contractual workman and having worked for less than 240 days was never retrenched from the service. Therefore, BSNL has prayed for dismissal of the reference.

The workman to prove his case and claim has examined himself as W.W. 1 and Smt. Nandini Sarkar Roy, a hand-writing expert as W.W. No.2.

The management has examined Sri Jitendra Nath Dalal, SDE, Calcutta Telephones as M.W.1 and Sri Mahadeb Mondal, Sub-Divisional Engineer, Narkeldanga as M.W. 2.

The order sheet dt. 24-03-2008 shows following documents filed from the side of the management have been marked as Exb. M-1 to M-6 and 14 documents filed from the side of the workman have been marked as Exhibit-W-1 to W-14 on formal proof being dispensed with.

(1) Copy of order dt.13-08-2003 passed by CAT in O.A./1141/1999 as Exb. W-1 and which shows the case filed by the workman Mr. Rajesh Singh for his regularization in the Group-D post against regular vacancy in Calcutta Telephones i.e. BSNL has been dismissed as withdrawn with the findings the establishment of BSNL outside purview or the jurisdiction of CAT. Further, ld. Counsel for workman had submitted to seek relief in the appropriate forum.

(2) Certificate dt. 17-11-1993 alleged to have been issued by M.W.2 Sri Mahadeb Kumar Mondal, Asst. Engineer, certifying the concerned workman being engaged since 1998 till 31-05-1993 by Calcutta Telephones and being engaged for more than 240 days in a calendar year as Exb.W-2. But M.W.2 the alleged author of such certificate denied issuing the same. Then alleged signature of M.W,2 appearing on such certificate was sent for examination by an expert. W.W. 2, the handwriting Expert, too in her evidence could not give conclusive evidence that the hand writing appearing on Exb.W-2 is that of M.W.2. Thus, in the eyes of law such certificate of employment of concerned workman with BSNL for more than 240 days in a calendar year stands not proved.

(3) Copy of temporary Gate Pass dt.01-07-1996 as Exb.W-3 and which proves that the concerned workman a casual labour working under SDPO, Maniktala was permitted to enter the building upto 31-08-1996.

(4) Exb.W-3/1, another temporary gate pass dt. 17-03-1993 issued to Mr. Rajesh Singh, casual mazdoor prove he was permitted to enter office of Cable Stores in S.D. Exchange, Beliaghata upto 31-03-1993, 30-06-1993, 30-09-1993, 31-12-1993, 30-06-1994, 31-12, 1994, 30-06-1995, 31-12-1995.

Thus, contents of Exb. W-3 and W-3/1 make the case of the BSNL that it engaged the concerned workman as casual mazdoor only for specific purpose for the period from April, 1991 to January, 1992 to be false and baseless.

(5) Exb.W-4, W-4/1 and Exb.W-4/2 appear to be letter written by Mr. Ajit Kumar Panja, M.P. to the Minister of Tele-communication on 26-03-1999, 16-07-1997 and 23-11-1997, to look into the case of the concerned workman who had been illegally retrenched by BSNL after working for more than 10 years.

(6) Exb.W-5, W-5/1, W-6, W-6/1 dt. 27-09-1996, 11-12-1996, 03-08-1999 and 29-10-2001 appear to be the representation made by concerned workman before the authorities of Calcutta Telephones for his illegal retrenchment compensation and for regularisation.

(7) Exb. W-7, a letter dt. 21-01-2000 of Calcutta Telephones to the concerned workman shows that he was informed that he never worked for more than 240 days in a calendar year and not entitled regularisation in Gr.D post.

(8) Exb. W-8, copy of order passed in writ petition no. 16133(W) of 2003 shows that writ petition filed by the concerned workman was dismissed for non-prosecution.

(9) Exb. W-9 is the failure report submitted by R.L.C.

(10) Exb.W-10 dt.07-02-2005 appears to be a complaint lodged by concerned workman before the ALC (C), Kolkata.

(11) Exb. W-11 appears to be the copy of the proceeding dt. 09-05-2005 before the A.L. C. (C), Kolkata and

(12) Exb.W-12, Exb.W-13 and Exb.W-14 appear to be the complaints lodged by the concerned workman before RLC (C), Kolkata on 12-08-2004, ALC (C), Kolkata on 20-12-2004 and to Chief General Manager, Calcutta Telephones on 26-07-2004.

Following documents have been exhibited from the side of the Management of BSNL:-

A. Copy of ALC's notice to CGM, Calcutta Telephones on industrial dispute raised by Sri Rajesh Singh as Exb.M-1.

B. Copy of Lawyer's letter to Sri Rajesh Singh as Exb.M-2.

C. Copy of notice of ALC dt.23-08-2004 to CGM, Calcutta Telephones as Exb.M-3.

D. Copy of CAT's order dt. 13-08-2003 as Exb. M-4.

E. Copy of affidavit in opposition filed by Calcutta Telephones in Writ Petition no. W.P.16133(W) of 2003 as Exb.M-5.

F. Daily cause list of the Hon'ble High Court as Exb.M-6.

That management of Calcutta Telephones/BSNL through Mr. M. Mondal exhibited following documents:-

G. Copy of letter of Legal Cell, Calcutta Telephones to Area Manager (North) dt. 02-05-2005 as Exb. M-7.

H. Copy of two explanations given by M.W. 2 denying issuance of the certificate of employment to the concerned workman as Exb.M-8 and Exb.M-9.

I. Copy of certificate dt.28-12-1992 of joining of Mr. Mahadeb Mondal as SDO(P), Sealdah, 36-50 Exchange, East on transfer as Exb. M-10.

J. Copy of release order dt.26-11-1992 of M.W.2 issued by MTNL, Bombay as Exb.M-11.

K. Copy of bill of Mr.J. N. Dalal, JTO dt,01-05-1991, 14-05-1991, 23-06-1991, 05-07-1991, 02-08-1991, 01-10-1991, 13-11-1991, 11-12-1991, 02-01-1991 and 04-02-1992 as Exb.M-12 collectively and those bills show payment made to different persons including the concerned workman Mr. Rajesh Singh for doing labour job.

It is admitted fact that concerned workman worked as a casual mazdoor in the establishment of Calcutta Telephones. It is his case that he worked as a casual from the year 1988 till 31-08-1996 and in support he has produced Exb.W-2 issued by M.W.2, Asst. Engineer, Calcutta Telephones, but M.W.2 categorically in his evidence denied issuing such certificate and alleged that the same is a fake certificate bearing his forged signature. To verify the genuineness of the signature of M.W.2 appearing on Exb.W-2 with the admitted signature of M.W.No.2 appearing on his deposition sheets were sent for examination by Handwriting Expert.

The Handwriting Expert Smt. Nandini Sarkar Roy, W.W.no. 2 stated that due to long time gap between the disputed signature dated 17-11-93 and admitted signatures of M.W. 2 appearing on his deposition sheet dt.12-05-2017 & 02-01-23, it is not possible for her to certify that the signature appearing on Exb.W-2 is that of M.W.2.

That apart, the Exb. M-7, M-8, M-9, M-10 and M-11 show that an explanation was called from M.W. 2, by the Department for issuance of Exb.W-2 to the concerned workman and M.W.2 in his reply dt.23-07-1997 and 22-12-2003 categorically denied issuing the certificate Exb.W-2 and has alleged the same to be a fictitious document bearing his forged signature.

However, Exb.W-3 and W-3/1 falsify the claim of the BSNL, that it engaged the concerned workman for specific purpose as casual mazdoor only for the period from April, 1991 to January, 1992 as those temporary gate passes bearing signature of Sub Divisional Engineer, Telephone Exchange, Raja Dhirendra Street and DE Block, Salt Lake show that the concerned workman was working as casual mazdoor in the establishment of Department of Telephones/Calcutta Telephones not only for the period from April 1991 to January 1992 as shown in Ext M-14 (collectively) but he was engaged by BSNL as casual in the month of July, 1996 and August, 1996 and also in the year 1993 to 1995.

Be that as it may, by espousing the present dispute, the workman has sought regularization in the post of Gr.D in the establishment of BSNL, claiming that he worked continuously for more than 240 days in a calendar year.

Therefore, let me decide whether a casual workman who has admitted that he is no longer in the service of BSNL since 01-09-1996 is entitled to claim regularization or absorption in a permanent Group "D" Post in

the Establishment of BSNL, a Central Government Undertaking, under the Ministry of Telecommunication for allegedly working for more than 240 days in a calendar year?

The law with regard to regularization of a casual workman has been evolved by various judgments passed by the Hon'ble Supreme Court and held that a casual employee seeking regularization in a Govt. organization must prove:-

1. There should be a sanctioned post in the institution;
2. The workers shall be working at such post for more than ten years;
3. The appointment of such employees shall not be illegal, even if it is irregular; and
4. The employee shall not be working under the umbrella of any order, permanent of interim, by any court of law in India.

Further clarifications were made in State of Karnataka v. M.L. Kesari, wherein the Supreme Court held that the service of the employees shall be for ten regular years, which should have been completed on or before 10 April 2006 (i.e., date of the judgment in Umadevi), and that the scheme would be formulated as a one-time scheme.

The Supreme Court in Umadevi has held that appointment should be made after following due process of law i.e. by following recruitment rules and by publishing advertisement of the vacancy in the papers, thereby giving opportunity to all eligible candidates to seek recruitment against vacant sanctioned posts. The persons who were appointed on temporary and casual basis without following proper procedure cannot claim regularization and absorption. Regularization cannot be a mode of recruitment.

In Ilmo Devi, the Supreme Court has reiterated that regularization shall be given effect to by the courts only in those cases where the part-time workers have been appointed irregularly against a sanctioned post, and the courts shall be unjustified in directing the State to create posts for the purpose of regularization.

In the present case no evidence has come on record to show that concerned workman was engaged by the establishment of Calcutta Telephones against a sanctioned vacant post. He has failed to prove that he was made to work as a casual by BSNL against a vacant sanctioned post and by keeping the post vacant for years together.

It is very interesting to note that the concerned workman in his evidence has admitted that he has studied up to Class-IV. That Calcutta Telephones being a department under Dept. of Tele-communication, Govt. of India, it has to follow prescribed recruitment rules and procedure for filling the sanctioned post of Gr.D. It is a matter of common knowledge that the minimum educational qualification for the post of Gr. D in the Central Govt. organisation at present is Class-X passed. So, it appears the concerned workman having studied upto Class-IV does not possess the required educational qualification for the post of Gr. D, in the Central Govt. organisation i.e. BSNL.

Further, no clear picture has come on record with regard to the actual date of engagement of the concerned workman as casual labour prior to his alleged retrenched on 31-08-1996. Exb. M-12 (collectively) shows that he was engaged only for certain days in a month and which do not prove he being engaged for more than 240 days in a calendar year. No doubt Exb.W-3 copy of temporary Gate Pass dt.01-07-1996 proves concerned workman a casual labour working under SDPO, Maniktala was permitted to enter the building upto 31-08-1996. Exb.W-3/1, another temporary gate pass dt. 17-03-1993 issued to Mr. Rajesh Singh, casual mazdoor prove he was permitted to enter office of Cable Stores in S.D. Exchange, Beliaghata upto 31-03-1993, 30-06-1993, 30-09-1993, 31-12-1993, 30-06-1994, 31-12-1994, 30-06-1995 and 31-12-1995. But, concerned workman has failed to produce wage slips or payment vouchers of the above period to show that he was made to work continuously for more than 240 days in a particular year and without any break or any other documents in support of those two gate passes.

Further, it is his case that he was engaged as a casual mazdoor by Calcutta Telephones in the year 1988 and he worked till 31st August, 1996. Unfortunately, he has not been able to produce any document about his engagement since 1988 except the two gate passes. Thus, from Exb.M-12 collectively and Exb. W-3 and W-3/1 it is seen that he used to work for BSNL in the year 1991 to 1995. Thus, here it is seen he worked for BSNL/ Calcutta Telephones in between 1991 to 1995 but no cogent and satisfactory documentary evidence have come on record to show that he was made to work for more than 240 days in a calendar year during the period from 1991 to 1995.

Further, Calcutta Telephones being a Govt. of India Undertaking is bound by its own recruitment rules and procedure for engagement of a particular staff. That there cannot be any back door employment in a Govt. organisation. The candidate seeking regularization against a permanent post is required to have qualification for the post against which he seeks regularization and he has to qualify the recruitment examination for the said post. In the present case, the workman concerned has failed to prove the same. More so, he has failed to prove existence of sanctioned vacant post in Calcutta Telephones and against which he was engaged as casual.

In view of the above the workman is not entitled to get the relief as claimed and accordingly, the issue under reference are disposed of and Reference Case no. 41/2005 is dismissed and an award to that effect is passed.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1955.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोटक महिंद्रा ओल्ड नेचुरल लाइफ इंश्योरेंस लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 1 दिल्ली** के पंचाट (185/2017) प्रकाि ात करती है।

[सं. एल–12012/87/2016–आई आर (बी–I)]

सलोनी, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.185/2017*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Delhi* as shown in the Annexure, in the industrial dispute between the management of Kotak Mahindra Old Natural Life Insurance Ltd, and their workmen.

[No. L-12012/87/2016-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1

ROOM NO.207, ROUSE AVENUE COURT COMPLEX,

NEW DELHI.

ID No. 185/2017

Sh. K. Mani S/o Sh. Kandraswami,

Represented by Karamkar Ekta Kendra,

A-704, Transit Camp, Saheed Rajiv Gandhi Colony,

Govindpuri, Kalkaji, New Delhi – 110019.

Workman…

Versus

1. Kotak Mahindra, Old Natural Life Insurance Ltd.,
   Unit No. E-2B, E2C(UGC), Himalaya House,
   K.G. Marg, New Delhi-110001.
2. M/s Man Machine Solutions Ltd.,
   143-A, Pocket M, DDA Janta Flats,
   Sarita Vihar, New Delhi-110044.

Management…

AWARD

In the present case, a reference was received from the appropriate Government vide letter No-L-12012/87/2016 (IR(B-I)) dated 27.06.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"*Whether the action of the management of M/s Man Machine (P) Ltd., Working in the premises of Kotak Life Insurance Ltd., in terminating the workman Sh. K. Mani, is fair and legal? If not, to what relief the workman is entitled to and from what date?"*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Claim statement filed, rebuttal written statement filed on behalf of the management no. 2.

3. Management No.1 is not appearing since long therefore they are proceeded ex-parte. Thereafter, issues were framed. Case was listed for claimant evidence on 18.07.2019. After that, claimant evidence was also filed. And after that, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant have not appeared to substantiate his claim.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 10.09.2024

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1956.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार फैक्ट्री मैनेजर, प्राइम जोनसन लिमिटेड; तहसील रामपुर बाघेलान, जिला- सतना, (म.प्र.)** प्रबंधतंत्र के संबद्ध नियोजकों और **, श्री सियाशरण चौधरी, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट(संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/आर/13/2022, को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-180-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

Delhi, the 14th October, 2024

S.O. 1956.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID.No. CGIT/LC/R/13/2022),** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Factory Manager, Prime Jonson Ltd.; Tehsil Rampur Baghelan, Dist- Satna, (M.P) and Shri Siyasharan Choudhary, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024,

[No. L-42025/07/2024-180-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/13/2022
Present: P.K.Srivastava
H.J.S..(Retd)
Siyasharan Choudhary,
S/o Late Shri Manfer Choudhary,
R/o Gram and post- Sijhata, Tehsil Rampur,
Baghelan, Dist. Satna M.P.

Workman

Versus

Prime Jonson Ltd.
Through its Factory Manager,
Village Manakhari, Post Bathiya,
Tehsil Rampur Baghelan,
Dist. Satna, M.P.

Management

A W A R D

(Passed on this 30th day of September-2024.)

The workman has filed the petition U/S. 2(A)(2) of Industrial Disputes Act 1947 as amended by Act of 2010 against his termination order against order of management dated 05.08.2021.

After registering a case on the basis of petition, notices were sent to the management. They appeared and filed their Written Statement of Defense.

During the pendency of petition on 30.09.2024; workman Siyasharan Choudhary present with his Ld. Counsel Shri K. B. Singh, filed an application for expedited hearing. Management had no objection as recorded by Ld. Counsel Mr Kuldeep Bhargava accompanied by Mr. Praveen Dhurvey management representative hence, allowing this application case was taken for hearing.

Workman filed and pressed his application filed today with copy of communication dt. 26.08.2024 sent by management to workman, requested to dispose the case. Ground is that the relief sought has been granted by management; by way of settlement.

Ld. Counsel for management and management representative has no objection in disposal of this case in the light of this communication and the terms mentioned in the Disposal Application.

Since the matter has been settled out of Court hence, the petition deserves to be disposed in the light of Disposal Application and communication dt. 26.08.2024 and stands disposed accordingly.

No Order to cost.

Let the copies of the award be sent to the Government of India, Ministry of Labour& Employment as per rules.

DATE: 30/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1957.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण **में,केन्द्रीय सरकार नियंत्रक, भारतीय पुरातत्व सर्वेक्षण, टी.टी. नगर, भोपाल (म.प्र),** प्रबंधतंत्र के संबद्ध नियोजकों और , **श्री गोरे, श्री परम लाल, श्री विनोद, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जबलपुर पंचाट(संदर्भ संख्या आईडी नंबर सीजीआईटी/एलसी/-आर/30/2018, को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल-42012/23/2018-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1957.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Ref. No. ID.No. CGIT/LC/-R/30/2018),** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Controller,Archaeological Survey of India, T.T. Nagar, Bhopal (M.P), and Shri Gore, Shri Param Lal , Shri Vinod ,Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024,

[No. L-42012/23/2018-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/30/2018

Present: P.K.Srivastava

H.J.S..(Retd)

1. Gore Lal S/o. Sulli Ahirwar

Village – Jatkara, P.O. Khajuraho

District – Chhatarpur (MP)

2. **Param Lal S/o. Kallu Kushwaha**

Village - Jatkara, P.O. Khajuraho

District – Chhatarpur (MP)

3. **Vinod S/o. Bhagwandas Ahirwal**

Village - Jatkara, P.O. Khajuraho

District – Chhatarpur (MP)

Workman

Versus

The Controller

Archaeological Survey of India

Bhopal Division, GTV Complex

T.T. Nagar, Bhopal (MP)

Management

A W A R D

(Passed on this 1st day of October-2024.)

As per letter dated 23/03/2018 by the Government of India, Ministry of Labour, New Delhi as made this reference to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number L-42012/23/2018 - IR(DU) dt. 23/03/2018. The dispute under reference related to :-

"Whether the action of management of Archaeological Survey of India in terminating the services of Shri Gore Lal, Param Lal and Vinod (all worked as daily wage workers from January 2015 to April 2016) is fare, just and legal ? If not, to what relief the concerned workmen are entitled to ?"

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. The workmen side appeared and filed their statement of claim. Vakalatnama of an Advocate filed from the side of management, but he never appeared and did not file even written statement of defense.

The case of the workmen, in short is that they were appointed in January 2015 by the management of Archaeological Survey of India, Sub-Division Khajuraho and continuously worked for total period of 15 months without any break. Their names were struck off from the muster roll of daily wagers by management, when they raised their demands for payment. They were thus disengaged by management without any notice or compensation which is in violation of Section 25-F, 25-N of the Act, hence against law. They have requested that holding the action of management in disengaging them, they be held entitled to be reinstated with back wages and benefits.

Management did not care to file written statement of defense, none appeared for management on many dates, hence the reference proceeded ex-parte against management vide order dated 02.02.2024.

In evidence, the workmen have filed their affidavits as their examination in chief. They proved documents which are Ex. W/1 statement of account of workman Gore Lal, Ex. W/2 receipts regarding payment to the three workmen, Ex. W/3 RTI document regarding payment from 01.06.2015 to 30.06.2015 to workman Gore Lal, Ex. W/4 muster roll of August 2015 obtained by RTI, Ex. W/5 application of the workmen, Ex. W/6 three identity cards photocopy, Ex. W/7 statement of account of workman Param Lal, Ex. W/8 statement of account of workman Vinod Ahirwal, Ex. W/9 RTI document regarding payment to workman Param Lal and Ex. W/10 RTI document regarding payment to workman Vinod.

I have heard ex-parte argument of Advocate Shri Shantanu Seth for workman. I have gone through the record.

Following issues arise for consideration in the case in hand :-

1) Whether, the workmen have successfully proved his continuous engagement for 240 days in an year ?

2) Whether, the disengagement of the workmen is legal ?

3) Whether, the workmen are entitled to any benefit ?

Issue No.-1 :-

Before, entering into any discussion, Section 25-B of the Act is being reproduced as follows :-

25B. Definition of continuous service.—*For the purposes of this Chapter,—*

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

The initial burden to prove this issue is on the workmen. The workmen have filed their affidavits in which they have corroborated their allegations and their case as stated in their statement of claim, referred to above. These affidavits are uncontroverted as management did not come out to cross examine these workmen on their affidavits. They have filed and proved documents as referred to above, which corroborate to a large extent their statements in their affidavits. As against this, there is no evidence by management. Hence, relying on the uncontroverted statements on oath in form of affidavits, as well the documents referred to above. Hence, the claim of the workmen that they worked continuously for 240 days in a year is held proved.

Issue No.-1 is answered accordingly.

Issue No.-2 :-

Before entering into any discussion on merit, Section 25-F & 25-G of the Act are being reproduced as follows :-

25F. Conditions precedent to retrenchment of workmen.— *No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—*

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

25G. Procedure for retrenchment.— *Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*

Case of the workmen is that they were not issued any notice of retrenchment nor were they paid compensation, which he has corroborated in their evidence. Hence, termination of his services is held in violation of 25-F & 25-G of the Act and issue no.-2 is answered accordingly.

Issue No.-3 :-

In the light of findings recorded above the question arises as to what relief the workmen are entitled ?

Learned Counsel for workmen has submitted that keeping in view the tenure of the workmen, he should be reinstated with back wages. Learned Counsel has referred to following Judgments :-

(1) ***"Hindustan Tin Works Limited Vs. Employees and Others (1979) 2 SCC 80*** – The referred para of the Judgment are being reproduced as follows :-

This extract is taken from *Hindustan Tin Works v. Employees*, (1979) 2 SCC 80 : 1979 SCC (L&S) 53 at page 86

9. It is no more open to debate that in the field of industrial jurisprudence a declaration can be given that the termination of service is bad and the workman continues to be in service. The spectre of common law doctrine that contract of personal service cannot be specifically enforced or the doctrine of mitigation of damages does not haunt in this branch of law. The relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when relief is granted. More so in our system where the law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period the workman just sustains himself, ultimately he is to be told that though he will be reinstated, he will be denied the back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted litigative activity of the employer. If the employer terminates the service illegally and the termination is motivated as in this case viz. to resist the workmen's demand for revision of wages, the termination may well amount to unfair labour practice. In such circumstances reinstatement being the normal rule, it should be followed with full back wages. Articles 41 and 43 of the Constitution would assist us in reaching a just conclusion in this respect. By a suitable legislation, to wit, the U.P. Industrial Disputes Act, 1947, the State has endeavoured to secure work to the workmen. In breach of the statutory obligation the services were terminated and the termination is found to be invalid; the workmen though willing to do the assigned work and earn their livelihood, were kept away therefrom. On top of it they were forced to litigation up to the Apex Court now they are being told that something less than full back wages should be awarded to them. If the services were not terminated the workmen ordinarily would have continued to work and would have earned their wages. When it was held that the termination of services was neither proper nor justified, it would not only show that the workmen were always willing to serve but if they rendered service they would legitimately be entitled to the wages for the same. If the workmen were always ready to work but they were kept away therefrom on account of an invalid act of the employer, there is no justification for not awarding them full back wages which were very legitimately due to them. A Division Bench of the Gujarat High Court in *Dhari Gram Panchayat* v. *Safai Kamdar Mandal* (1971) 1 LLJ 508 (Guj) and a Division Bench of the Allahabad High Court in *Postal Seals Industrial Cooperative Society Ltd.* v. *Labour Court II, Lucknow* (1971) 1 LLJ 327 (All) have taken this view and we are of the opinion that the view taken therein is correct.

11. In the very nature of things there cannot be a strait-jacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure. At that stage the Tribunal will exercise its discretion keeping in view all the relevant circumstances. But the discretion must be exercised in a judicial and judicious manner. The reason for exercising discretion must be cogent and convincing and must appear on the face of the record. When it is said that something is to be done within the discretion of the authority, that something is to be done according to the Rules of reason and justice, according to law and not humour. It is not to be arbitrary, vague and fanciful but legal and regular (see *Susannah Sharp* v. *Wakefield* [(1891) AC 173, 179])."

***(2) "Vikramaditya Pandey Vs. Industrial Tribunal, Lucknow (2001) 2 SCC 423* –** The referred para of the Judgment is being reproduced as follows :-

This extract is taken from *Vikramaditya Pandey v. Industrial Tribunal, Lucknow*, (2001) 2 SCC 423 : 2001 SCC (L&S) 438 : 2001 SCC OnLine SC 268 at page 426

6. *We have carefully considered the respective contentions made on behalf of the parties. It is not in dispute that the award passed by the Tribunal was not challenged by the Bank. The Tribunal as well as the High Court have concurrently found that the case of the appellant was one of retrenchment and that the appellant was working between the period 4-12-1981 to 19-7-1985 with small motivated breaks and that in any case he worked for more than 240 days in a year before termination of services. The Tribunal in para 5 of its award has stated thus:*

"It is however evident that he worked for much more than 240 days in an year before his service ceased. It is also clear that breaks were given and ad hoc appointment was made every time for 90 days or less. This was evidently done to stick to the letter of the law regarding the authority of the Bank in regard to making appointments only for limited periods in ad hoc or temporary arrangement, as specified in the Service Regulations 1975. It is however, clear that services of the workman were needed as the work was available but a continuing temporary appointment was not made even though under Regulation 5(iii) of the Service Regulations such longer term stopgap appointment (and not only for 90 days) can be made with prior approval of the competent authority (the Board). It would thus, appear that attempt was made conforming to the letter of law and not its spirit insofar as provisions regarding retrenchment under the Industrial Disputes Act go."

The only issue before the High Court was whether the appellant was entitled to reinstatement in service with back wages, once the termination of his services had been held to be illegal and more so when the same was not challenged. Ordinarily, once the termination of service of an employee is held to be wrongful or illegal the normal relief of reinstatement with full back wages shall be available to an employee; it is open to the employer to specifically plead and establish that there were special circumstances which warranted either non-reinstatement or non-payment of back wages. In this case we do not find any such pleading of special circumstances either before the Tribunal or before the High Court. Since Regulation 103 of the Regulations is referred to in the order of the Tribunal as well as in the High Court and it has bearing in deciding the controversy, the focus is needed on it. It reads:

"103. The provisions of these Regulations to the extent of their inconsistency with any of the provisions of the Industrial Disputes Act, 1947, U.P. Dookan Aur Vanijya Adhishthan Adhiniyam, 1962, Workmen's Compensation Act, 1923 and any other labour laws for the time being in force, if applicable to any cooperative society or class of cooperative societies, shall be deemed to be inoperative."

By a plain reading of the said Regulation it is clear that in case of inconsistency between the Regulations and the provisions of the Industrial Disputes Act, 1947, the State Act, the Workmen's Compensation Act, 1923 and any other labour laws for the time being in force, if applicable to any cooperative society or class of cooperative societies, to that extent the Regulations shall be deemed to be inoperative. In other words, the inconsistent provisions contained in the Regulations shall be inoperative, not the provisions of the other statutes mentioned in Regulation 103. The Tribunal in this regard correctly understood the regulation but wrongly refused the relief on the ground that no reinstatement can be ordered on a regular employment in view of the provisions contained in the said Regulation. But the High Court read the regulation otherwise and plainly misunderstood it in saying that if there is any inconsistency between the Regulations and the Industrial Disputes Act, 1947 and other labour laws for the time being in force the Regulations will prevail and the Industrial Disputes Act, 1947 and other labour laws shall be deemed to be inoperative. This misreading and wrong approach of the High Court resulted in the wrong conclusion. In the view it took as regards Regulation 103 the High Court proceeded to state that even if there was retrenchment in view of Regulation 5 of the Regulations the Labour Court was not competent to direct reinstatement of the appellant who was not recruited in terms of Regulation 5 because the Labour Court had to act within the ambit of law having regard to the Regulations by which the workman was governed. In this view the High Court declined relief to the appellant which in our view cannot be sustained. The Tribunal felt difficulty in ordering reinstatement as the appellant was not a regular employee. The appellant ought to have been ordered to be reinstated in service once it was found that his services were illegally terminated in the post he was holding including its nature. Thus in our opinion both the Tribunal as well as the High Court were not right and justified on facts and in law in refusing the relief of reinstatement of the appellant in service with back wages. But, however, having regard to the facts and circumstances of the case and taking note of the fact that the order of termination dates back to 19-7-1985 we think it just and appropriate in the interest of justice to grant back wages only to the extent of 50%.

7. *In the result for what is stated above, we set aside the award of the Tribunal and order of the High Court in regard to denial of relief of reinstatement of the appellant with back wages and direct his*

reinstatement in service as he then was on the date of termination of his services, with 50% back wages. This appeal is allowed accordingly in the terms stated above. The parties to bear their own costs."

(3) ***"Sachiv, Krishi Upaj Mandi Vs. Mahendra Kumar (2003) SCC Online MP 720*** – Held - on facts, order of reinstatement by Tribunal was upheld."

(4) ***"Hansraj Bhadouriya Vs. Director, Agriculture 2017 SCC Online MP 505*** – Held - on facts, order of reinstatement by Tribunal was upheld."

In the case in hand, the total tenure of these workmen proved is just more than one year. They are daily wage casual labour, not appointed against sanctioned vacancy following recruitment process. Keeping in view these facts the cases referred to above are of no help to them. Keeping in view all the facts and circumstances referred to above, a lump sum compensation of Rs. 50,000/- to each of the workmen in lieu of all their claims, payable to them within 30 days from the date of publication of Award, failing which interest @ of 8% p.a. from date of Award, till payment will meet the ends of justice. I am supported by following Judgments of Hon'ble the Apex Court in my view :-

1) ***Jagbeer Singh Vs. Haryana State Marketing Board, (2009) 15 SCC 327*** – Held that when the workman spent total length of service from 01.09.1995 to 18.07.1996 compensation and not reinstatement would be proper remedy.

2) ***BSNL Vs. Man Singh, (2012) 1 SCC 558*** – Held that when it was proved that the workman had merely worked for more than 240 days compensation would meet ends of justice.

3) ***Rajasthan Development Corporation Vs. Gitam Singh, (2013) 5 SCC 136*** – Held that when the daily wager worked only for eight months from 01.03.1991 to 31.10.1991, compensation and not reinstatement would meet ends of justice, to which these workmen are held entitled.

4) ***Hindustan Machine Tools Vs. Ghanshyam Sharma, (2008) 18 SCC 80 –*** Held that 50% as compensation would meet the ends of justice in the facts and circumstances of that case.

Issue no.-3 is answered accordingly.

AWARD

Holding the action of management of Archaeological Survey of India in terminating the services of Gore Lal, Param Lal and Vinod unjust invalid and unreasonable, the workmen are held entitled to a lump sum compensation of Rs. 50,000/- to each of the workmen in lieu of all their claims, payable to them within 30 days from the date of publication of Award, failing which interest @ of 8% p.a. from date of Award, till payment. No order as to cost.

DATE: 01/10/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (पहचान **संख्या 95/2018**) को प्रकाि ात करती है, जो केन्द्रीय सरकार को **10/10/2024** को प्राप्त हुआ था।

[सं. एल –22012/49/2018-आई.आर. (सी.एम-II)]

New Delhi, the 14th October, 2024

S.O. 1958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 95/2018*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **10*/10/2024.***

[No. L-22012/49/2018 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 20th day of August, 2024

INDUSTRIAL DISPUTE No. 95/2018

Between:

The General Secretary,

(Sri Riaz Ahmed),

Singareni Miners & Engg. Workers Union (HMS),

H.No. C-34, Sector-I, Godavarikhani

Peddapalli Dist. (TS)

Godavarikhani-505209.

.....Petitioner

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,

Ramagundam-I Area, Godavarikhani-

Peddapalli Dist. (TS)

Godavarikhani-505209. … Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y. Ranjeeth Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/49/2018 (IR(CM-II)) dated 25.10.2018 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workmen. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Dist., in not rectifying the basic pay anomaly in respect of Sri Alluri Sudharshanam, Ex-Turner, Cat.IV, is justified or not? If not, what relief the concerned worker is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 95/2018 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Notice by registered post sent to the petitioner returned with the endorsement "addresses left". No other address is available of the petitioner on record. It seems petitioner don't want to prosecute his case. In the want of claim statement 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 20th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट **(पहचान संख्या 3/2016)** को प्रकाि ात करती है, जो केन्द्रीय सरकार को **10/10/2024** को प्राप्त हुआ था।

[सं. एल –22012/90/2015–आई.आर. (सी.एम–II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 3/2016*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.Ltd.** and their workmen, received by the Central Government on **10*/10/2024.***

[No. L-22012/90/2015 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Dated the 14th day of August, 2024

INDUSTRIAL DISPUTE No. 3/2016

Between:

The President

(Bandari Satyanarayana),

Telengana Trade Union Council,

Rajkumar Complex, Saibaba Temple Road,

Jaffar Nagar, Mancherial – 504 209.

Adilabad Dist.. … Petitioner Union

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,

Mandamarri Area,

Mandamarri (P.O.)-504 231.

Adilabad Dist.. … Respondent

Appearances:

For the Workman : Sri S. Bhagwanth Rao , Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No. L- 22012/90/2015-IR(CM-II) dated 23.12.2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the General Manager, M/s. Singareni Collieries Co.Ltd., Mandamarri Area, Adilabad Distt in terminating the services of Sri Olamalla Bapu, Ex-Badli Coal Filler, KK-5 Inc., SCCL., Mandamarri Area with effect from 6.7.1999 is justified or not? If not, to what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No.3/2016 and notices were issued to the parties concerned.

2. **The averments made in the claim statement are as follows**:

It is submitted that Workman was appointed an employee on 12.1.1997, and he become permanent employee during his service in the Company. The Service conditions of the Workman are governed by various standing orders of Company. It is submitted that Workman could not attend to his duties during the year 1998 due to his ill health, the Respondent issued a show cause notice dated 20.1.1998 and the Workman submitted a reply on 27.4.1998 which was not considered by the Respondent Company and Workman was dismissed from service through proceedings No. P/MMI/TI2/99/2300, dated 6.7.1999. It is submitted that Workman preferred an appeal to the higher authorities that went in vain, who mechanically upheld the orders of Chief General Manager, Mandamarri Division. It is submitted that he has put in 3 years of service without any red remark and the Workman still have 20 years of service for superannuation. The removal from service of the Workman who rendered more than 2 years of qualified service is arbitrary, illegal and against to the principles of natural justice and also against to the provisions of the Standing Orders of the Company. Workman was given employment for the post as a Ex-Coal Filler, subject to availability of work. It is submitted that whenever Workman used to go for job there no work was allotted but there appears to be contributory negligence. The Respondent company one way given employment and other way dismissed from service. The intention of the company is crystal clear is to remove the masses. The company adopted unfair labour practice and victimization. The Workman could not opt Rs. 3,00,000/- as compensation in lieu of employment, but opted employment. Now the Workman has got re-option to claim compensation of Rs. 5,00,000/ -in lieu of dependent employment through Settlements dated 20.11.2009 if the employment is the not provided. The action of the Respondent amount to " Hire and Fire" which has no force in the Industrial Jurisprudence. It is submitted that the "award and settlements" both are decrees in terms of Industrial disputes Act. There was settlement from 1.1.2000 to 31.12.2010 before the Regional Labour Commissioner, at Hyderabad, that those whoever were removed from 1.1.2000 to 30.12.2010, cases can be considered by the Management as per the Circular P.40/5911/IR/33, date: 10.3.2000, the Workman was called for interview, but the case of the Workman was not considered for re-employment as per the settlement. If the Workman was given employment he would have been put in more than additional 20 years of service. It is submitted that the Respondent did not conduct enquiry properly and no documents were given to the Workman and no subsistance allowance was paid to him. The Respondent obtained thumb impressions on enquiry report by the Workman and Workman do not know the English language and enquiry conducted by the Respondent without mentioning contents therein is arbitrary, illegal and against to the principles of natural justice. It is prayed to decide the validity of domestic enquiry as preliminary issue. Therefore the non-consideration of settlement by the company is very bad and against the law. It is submitted that That after removal from the service by the Respondent from 6.7.1999 the Workman and children of Workman are fallen on roads with untold sufferings. The relationship between the Workman and Respondent is still continuing and the Workman not yet attained the age of superannuation. Therefore, prayed to direct the Respondent to reinstate the Workman into service with continuity of service, all attendant benefits with full back wages.

3. **Respondent filed counter denying the averments of the Workman as under**:

It is submitted that the Workman was dismissed from service with effect from 6.7.1999 and he got his case represented before the Assistant Labour Commissioner (Central) Mancherial vide petition dated 01.02.2011 that is after a lapse of nearly 12 years from the date of dismissal. The Workman failed to submit the reasons for delay in raising the dispute after a lapse of 12 years. The petition filed by this Workman is liable to be dismissed on this ground of delay and latches. It is submitted that the Workman was dismissed from service on proved charge of absenteeism after conducting a detailed domestic enquiry duly following the principles of natural justice. It is submitted that the Workman Olamalla Bapu, was appointed on 12.01.1997 as Badli Coal Filler. It is submitted that he remained absent unauthorisedly without sufficient cause during the year 1998 and had put in only 71 actual attendances. As his said act constituted misconduct under Company's approved standing orders he was issued charge sheet No.K5/99/13CS/49 dated 6.3.1999 under Standing Order clause No.25.25 which reads as under:

"25.25 : Habitual late attendance or habitual absence from duty without sufficient cause."

It is submitted that the Workman on receiving the charge sheet dated 6.3.1999 submitted his explanation dated 16.3.1999 stating that he could not perform duties properly due to health problem and assured to be regular to duties. The Workman, however, did not disclose the nature of ill health he suffered; did not submit documentary evidence to establish the alleged ill health. Since his explanation was found to be not satisfactory, an enquiry into the charge leveled against the Workman was conducted by the Enquiry Officer on 3.4.1999 giving full and fair opportunity to the Workman to defend his case during the course of enquiry. It is submitted that the Workman participated in the enquiry proceedings and gave his statement before the Enquiry Officer stating that he was appointed in the Company on 12.01.1997, that he was not habituated for hard work before joining company, not reported sick in Company Hospital and pleaded guilty of the charge levelled. Even during the enquiry the Workman failed to specify the ill health he suffered and also not produced documentary evidence to substantiate his alleged ill health which prevented him from being regular to duties. On the other hand the paid paysheets and attendance registers produced on behalf of Management during the course of enquiry established the charge of absenteeism. It is submitted that on the basis of documentary evidence adduced before the Enquiry Officer, the Enquiry Officer held the charge sheeted employee, Workman, guilty of the charges leveled under Standing Order No.25.25. It is to further submit that the Workman was supplied copy of enquiry proceedings and also enquiry report No.PMM/7/2/99/ 1888, dated 23.05.1999 to enable him to submit his representation, if any, against the findings of the Enquiry Officer within seven days of receipt of letter dated 23.5.1999. It is submitted that the Workman on receiving the copy of enquiry proceedings and report submitted his written representation dated 7.6.1999 wherein he submitted that due to his ill health being new to job he could not be regular to duties. Even at this stage also the Workman did not disclose the actual disease with which he suffered and also not produced proof of his alleged ill-health. His contention that as he was new to the job he could not be regular to duties is not tenable as before getting employed in the Company he was extended required vocational training. The Workman having undergone the training at his free will joined the services. Further, it is not the Workman alone who got such appointment. The others who got appointed with him have been attending to duties normally. It is further submitted that Workman had any difficulty in attending to duties, he ought to have made a representation to the mine authorities for examining his case, but he did not do so. Thus, none of the causes cited by the Workman bear any truth. Further, the Workman did not dispute the enquiry proceedings and the findings of the Enquiry Officer. Further, the Workman being an underground employee was expected to put in 190 actual attendances in a calendar year. But he failed in doing so in any of the years since 1997 which is evident from the following year-wise attendance particulars:

1997 = 093

1998 = 071

1999 = 015 upto 25.06.1999

The Workman was issued charge sheet for his absenteeism during the year 1998. After issuance of charge sheet also the Workman failed to realize his mistake and failed to improve his attendance. In the year 1999 upto 25.06.1999 he had worked on 15 days only. Hence, the disciplinary authority imposed the penalty of dismissal dismissing the Workman from services from 06.07.1999 vide letter No.P/MM/7/2/99/2300, dated 3.7.1999. If the Workman has got left over service of 20 years he should have to be regular to duties and attentive in discharging his duties. It is submitted that averment of the Workman that he could have availed either Rs.3 lakhs as compensation in lieu of employment or Rs.5 lakhs as per Settlement dated 20.11.2009 if employment is not provided is not tenable. It is to submit that payment of either Rs.3 lakhs or Rs.5 lakhs, as the case may be, is payable in lieu of dependent employment to the wife of a deceased employee who died while in service or declared medically unfit for employment. The Workman was an employee of the Respondent company, as such, question of opting for compensation of Rs.3 lakhs or Rs.5 lakhs does not arise. The Workman is raising irrelevant/inapplicable provisions/settlements to make out a case in his favour. The conditions for review by High Power Committee for considering the cases of eligible dismissed candidates for appointment are (i) The dismissed employee should be below 55 years on or before 09.08.2011; (ii) He should have put in 190 musters in case of underground employee and 240 musters in case of surface employee in any two calendar years out of the previous 05 years prior to the year of dismissal or should have put in 150 musters in case of underground employees and 200 musters in case of surface employees in every year in the previous four years. It is submitted that in the present case, the Workman was dismissed on 06.07.1999 and thus his case does not fall within the frame work on the said settlement and circular. Hence, his contention that if the Workman was given employment he would have put in more than additional 20 years of service is not tenable. The Workman is misrepresenting the clause relating to payment subsistence allowance. As per approved standing orders of the Respondent Company, subsistence allowance is payable to an employee who is placed under suspension pending enquiry but not to an employee who is not placed under suspension. Hence his statement that no subsistence allowance is paid to him merits no consideration and it is against the rules in force. The further statement that the Respondent obtained thumb impressions on enquiry report and conducted enquiry and the Workman do not know the English language and the enquiry was conducted by the Respondent without mentioning the contents therein is arbitrary, illegal and against and against the principles of natural justice is also far from truth. It

is the sheer negligence and irresponsibility of the workman, which are responsible for his dismissal and not Respondent Company. Hence, prayed dismiss the case of the Workman.

4. Heard arguments of Learned Counsel for Respondent.

5. **On the basis of pleadings of both the parties, following issues are to be determined**:-

I. Whether the Departmental Enquiry conducted against the workman is legal and valid?

II. Whether the claim of the Petitioner workman is time barred due to delay and latches in filing the claim petition?

III. Whether the action of the Respondent Management in terminating the services of Petitioner vide proceeding dated 3.7.1999?

IV. To what relief the Workman is entitled?

Findings:-

6. **Point No.I**:- Departmental Enquiry conducted against the Petitioner workman has been held legal and valid vide order dated 17.4.2023.

Thus, Point No.I is decided accordingly.

7. **Point No.II**:- Respondent Counsel contended that the Petitioner was dismissed from service with effect from 6.7.1999 and he got his case presented before the Assistant Labour Commissioner(C), Mancherial at Ramagundam through Bandaru Satyanarayana, representative of Telengana Trade Union Council vide petition dated 1.2.2011, i.e., after lapse of nearly 12 years from the date of dismissal. Thus, the Petitioner failed to submit the reason for delay in raising the dispute after a lapse of 12 years. Therefore, the petition filed by the Petitioner is liable to be dismissed on this ground of delay and latches. Therefore, the petition filed by the Petitioner is liable to be dismissed on this ground of delay and latches.

8. Perused the record. As per claim petition filed by the Petitioner in para 3, he has admitted that he was dismissed from service through proceeding dated 6.7.1999 by the Respondent management. Claim petition has been filed by the Petitioner after reference dated 23.12.2015 received from Ministry of Labour and Employment on dated 18.1.2016. Admittedly, the Petitioner has approached Assistant Labour Commissioner(C), Mancherial vide petition dated 1.2.2011 after a lapse of nearly 12 years from the date of dismissal. But here in the petition, Petitioner has not disclosed any reason for inordinate delay of 12 years in raising the industrial dispute regarding his dismissal vide proceeding dated 6.7.1999. It was incumbent upon the Petitioner to explain the reason for delay in approaching the forum for his grievance redressal against his dismissal. But the claim petition filed by the Petitioner is silent about any cause or explanation for raising the industrial dispute with inordinate delay. In this context, I would like to make reference of few relevant decisions of the Hon'ble Supreme Court of India, which are discussed below:-

(a) **Hon’ble Apex Court in the case of Haryana Sate Cooperation Land Development Bank Vs. Neelam reported in2005(5) SCC 91, have held**,

“that a delay of seven years in approaching the Labour Court to be relevant factor to refuse relief of reinstatement;”

(b) Further, in the case of State of Karnataka and another Vs. Ravi Kumar reported in 2009 13 SCC 746, Hon’ble Apex Court have held,

“*that long delay in seeking reference of the dispute has rendered the reference State and it should have been rejected by the Labour Court.”*

(c) Assistant Engineer, C.A.D., Kota Vs. Dhan Kunwar AIR 2006 SC 2670 wherein Hon’ble Apex Court have held,

“7. However, certain observations made by this Court need to be noted. **In Nedungadi Bank Ltd. K.P. Madhavankutty and Ors. (2000 (2) SCC 455**) it was noted ata paragraph 6 as follows:

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since heel settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that

two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex-facie bad and incompetent."

In the present matter, Petitioner was dismissed from service vide proceeding dated 6.7.1999 and he has approached to the forum of Assistant Labour Commissioner(C) nearly after lapse of 12 years from the date of his dismissal and thereafter reference was made by Government of India vide letter dated 23.12.2015, to this Court. However, he has not furnished any explanation for such inordinate delay of 12 years in raising the dispute. Therefore, in view of law laid down by Hon'ble Apex Court as discussed above, the claim petition filed by the Petitioner in the present matter is barred by limitation and liable to be dismissed on the ground of delay and latches.

Thus, Point No.II is answered accordingly.

9. **Point No.III:-** The finding has been given at Point No.II that claim petition of the Petitioner is time barred, due to delay and latches in raising the industrial dispute. Now, we move to examine the dispute on the basis of merits. Petitioner has taken the plea in his petition that he was given employment on the post Ex.Coal Filler, that was subject to availability of vacancy, but whenever Petitioner used to go for job, there was no work. But there appears to be contributory negligence. Petition also discloses that Petitioner himself has admitted the fact that he could not attend his duty during the year 1998 due to his ill-health and for the long period of absence without any intimation or sanctioned leave. An enquiry was conducted against the Petitioner and he was held guilty of misconduct under Standing Order No.25.25. The reason for his absence from duty Petitioner has disclosed that due to ill-health he could not attend the duty.

10. On the other hand, Respondent has contended that Petitioner was dismissed from service on proved charge of absenteeism after conducting a detailed domestic enquiry duly following the principles of natural justice. Further Respondent contended that the Workman Sri Olamalla Bapu was appointed on 12.1.1997 as badli Coal Filler. He remained absent unauthorizedly without sufficient cause during the year 1998 and had put in only 71 actual attendances. Respondent further contended that as he had constituted misconduct under Company's approved Standing Orders, he was issued charge sheet dated 6.3.1999 under Standing Order No.25.25. It is submitted that the Workman on receiving the charge sheet dated 6.3.1999 submitted his explanation dated 16.3.1999 stating that he could not perform duties properly due to health problem and assured to be regular to duties. The Workman, however, did not disclose the nature of ill health he suffered; did not submit documentary evidence to establish the alleged ill health. Since his explanation was found to be not satisfactory, an enquiry into the charge leveled against the Workman was conducted by the Enquiry Officer on 3.4.1999 giving full and fair opportunity to the Workman to defend his case during the course of enquiry. It is submitted that the Workman participated in the enquiry proceedings and gave his statement before the Enquiry Officer stating that he was appointed in the Company on 12.01.1997, that he was not habituated for hard work before joining company, not reported sick in Company Hospital and pleaded guilty of the charge levelled. Even during the enquiry the Workman failed to specify the ill health he suffered and also not produced documentary evidence to substantiate his alleged ill health which prevented him from being regular to duties. On the other hand the paid pay sheets and attendance registers produced on behalf of Management during the course of enquiry established the charge of absenteeism. It is submitted that on the basis of documentary evidence adduced before the Enquiry Officer, the Enquiry Officer held the charge sheeted employee, Workman, guilty of the charges leveled under Standing Order No.25.25. Respondent also contended that if the Petitioners family members are on the roads, it is the Petitioner's misdeed that caused them this status and for the mistake done by the workman, the Respondent cannot be held responsible. Further, it is contended that if unauthorizedly absented employees are allowed to continue it leads to indiscipline. The Petitioner as a responsible employee and having responsibility of his family could himself have realized his responsibility in discharging his duty obediently.

11. Perused the record. As per prayer clause of petition, Petitioner has challenged dismissal order dated 6.7.1999 but the document on record of enquiry proceeding would reveal that there is no such document pertaining to order dated 6.7.1999 of dismissal of Petitioner. The document on record reveals that dismissal order of the Disciplinary authority pertains to the date of 3.7.1999. Therefore, the petition filed by the Petitioner is defective as no such date of dismissal order i.e., 6.7.1999 is in existence which Petitioner has mentioned in prayer clause of petition.

12. However, dismissal order dated 3.7.1999 goes to show that the Disciplinary authority after taking into consideration the report of the Enquiry Officer as well as the submissions of the charge sheeted employee and keeping in view the nature of the charge, has imposed the punishment of dismissal of Petitioner from service. I notice no illegality or irregularity in the dismissal order dated 3.7.1999 of Petitioner passed by Disciplinary Authority. However, Workman has utterly failed to prove his claim that the dismissal order dated 3.7.1999 passed by the Respondent management is illegal. As regards the seriousness of charge of absenteeism of the employee from duty without any intimation or sanctioned leave from competent authority is concerned, I would like to make reference of the few decisions of the Hon'ble Supreme Court of India, detailed as under:-

1. **In State of U.P. Vs. Ashok Kumar Singh 1996 (1) SCC 302, the Apex Court have held:-**

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

2. In **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 Apex Court have held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

3. **In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Apex Court held**:

"11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

4. **In State of U.P. vs. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held**:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

In view of the law laid down by the Hon'ble Apex Court, regarding gravity and seriousness of the misconduct of absenteeism of the employee in the present matter, Petitioner was habitually absent from duty without sufficient cause and he was found guilty of committing misconduct under the Standing Orders No.25.25. Although Petitioner has taken the plea of ill-health for absence from duty, but he did not file any document in evidence to establish that the Petitioner was absent from duty due to his ill-health. Further, he did not disclose the nature of ill-health from which he suffered and nor ever reported sick in the Company's hospital. Therefore, plea of ill-health taken by the Petitioner for his habitual absence from duty is not acceptable. As per records, Petitioner has put in only 71 musters as against the 190 musters which are mandatory for underground workmen in the Respondent Company. Therefore, under these circumstances due to habitual absence from duty of the Petitioner, the work of the Respondent Company suffered. Therefore, under these circumstances it can not be said that the punishment of dismissal imposed upon the Petitioner by Respondent authority was disproportionate or not commensurate to the guilty of the charge levelled against Petitioner.

13. In view of the fore gone discussion and the law laid down by the Hon'ble Supreme Court of India, the action of the Respondent is legal and justified.

Thus, Point No.III is decided accordingly.

14. **Point No.IV**: In view of the finding given in Point Nos. I, II & III, the Workman is not entitled to get any relief and this petition is found to be baseless, hence, liable to be dismissed.

AWARD

The action of the Generla Manager, M/s. Singareni Collieries Co. Ltd., Mandamarri Area, Adilabad Distt in terminating the services of Sri Olamalla Bapu, Ex-Badli Coal Filler, KK-5 Inc. SCCL, Mandamarri Area with effect from 6.7.1999 is legal and justified. The workman is not entitled to any relief as prayed for.Reference is answered accordingly.

Award is passed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 14th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman	Witnesses examined for the Respondent
Nil	Nil

Documents marked for the Workman

NIL

Documents marked for the Respondent

Nil

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, हैदराबाद के पंचाट (पहचान **संख्या 119/2015)** को प्रकाि ात करती है, जो केन्द्रीय सरकार को **10/10/2024** को प्राप्त हुआ था।

[सं. एल –11012/27/2015-आई.आर. (सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 14th October, 2024

S.O. 1960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(ID. No. 119/2015*)*** of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Air India Ltd.** and their workmen, received by the Central Government on **10*/10/2024.***

[No. L-11012/27/2015 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 16th day of August, 2024

INDUSTRIAL DISPUTE No. 119/2015

Between:

Shri G. Nagesh,

S/o Late Shri G. Advaiah,

H.No.1-11-96/A,

Shyamal Builidng, Begumpet,

Hyderabad-500016. ..

.Petitioner

AND

1. The CMD,
   Air India Ltd., Airlines House,
   113, Gurudwara Rakabganj Road,
   New Delhi-110001.
2. The Dy. General Manager (Pers),
   Air India Ltd., Engineering Complex,

Begumpet, Hyderabad-500016.

3. The Regional Director,
Air India Ltd,
Chennai- … Respondents

ppearances:

For the Petitioner : Shri A. Nagendra Rao, Advocate

For the Respondent: None

A W A R D

The Government of India, Ministry of Labour by its order No.L-11012/27/2015-IR(CM-I) dated 02/11/2015 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Air India Ltd, and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of Air India Ltd., Hyderabad in not regularizing the services of Sri G. Nagesh, S/o Late Shri G. Advaiah in the post of Conteen Helper is justified? To what relief is the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 119/2015 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for exparte Evidence. Despite sufficient opportunity accorded Petitioner remained absent and none present on behalf of Petitioner. Therefore, in absence of any substantiated evidence by Petitioner, the case a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 16th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 अक्तूबर, 2024

का.आ. 1961.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **क्लियर सिक्योर सर्विसेज प्राइवेट लिमिटेड, हिताची पेमेंट सर्विसेज प्राइवेट लिमिटेड, रुनवाल और ओमकार ई-स्क्वायर, सायन (पूर्व) मुंबई और मुजफ्फरपुर, बिहार,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सुबोध कुमार, कामगार,** के बीच अनुबंध में निर्दिष्ट **औद्योगिक न्यायाधिकरण, पटना,पंचाट(संदर्भ संख्या Ref Case No. 39 (C) of 2022)** को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.10.2024 को प्राप्त हुआ था।

[सं. एल-**42025**/07/2024-181-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 14th October, 2024

S.O. 1961.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award [**Ref Case No. 39 (C) of 2022**] of the Industrial Tribunal, Patna, as shown in

the Annexure, in the Industrial dispute between the employers in relation to **Clear Secured Services Pvt Ltd, Hitachi Payment Services Pvt. Ltd, Runwal & Omkar E- Square, Sion (East) Mumbai and Muzaffarpur, Bihar, and Shri Subodh Kumar, Worker,** which was received along with soft copy of the award by the Central Government on 14.10.2024.

[No. L-42025/07/2024-181-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

Before The Presiding Officer,

Industrial Tribunal, Patna.

Reference Case No.:-39 (C) of 2022

Between the management of Clear Secured Services Pvt Ltd, Hitachi Payment Services Pvt. Ltd, Runwal& Omkar E- Square, 201-D, 2nd Floor, Sion (East) Mumbai-400022 and Muzaffarpur, Bihar – 842002 And The workman Sri Subodh Kumar, S/O- Late Narendra Kumar, At- gyan Kala Kendra Lane, P.O- Ramna, Muzaffarpur, Bihar- 842002.

For the management:- None.

For the Workman :- None.

Present:- **Manoj Shankar**

Presiding Officer,

Industrial Tribunal, Patna.

A W A R D

Patna, dt- 27th September, 2024.

By the adjudication order no.- 1/ID(19)/2022/Dy CLC-Pt dated- 15.11.2022 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under clause-(d) sub-section-(1) and Sub-section-2(A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as "the Act"), the following dispute between Clear Secured Services Pvt Ltd, Hitachi Payment Services Pvt. Ltd, Runwal& Omkar E- Square, 201-D, 2nd Floor, Sion (East) Mumbai-400022 and Muzaffarpur, Bihar – 842002 And The workman Shri Subodh Kumar, S/O- Late Narendra Kumar, At- gyan Kala Kendra Lane, P.O- Ramna, Muzaffarpur, Bihar- 842002 for adjudication to this tribunal:-

SCHEDULE

"Whether the action of management of M/S Cleared Secured Services Pvt. Ltd., Mumbai in terminating the Services of the workman, Shri Subodh Kumar w.e.f. 19.07.2022, engaged as care taker of A.T.M in the establishment of Circle head Punjab National Bank, Circle Office, Aghoria Bazar, Muzaffarpur is justified, fair and legal, If not, then for what relief the workman is entitled to?"

2. On perusal of the reference order dt- 15.11.2022, It is evident that it was received to this tribunal on 23.11.2022, it appears that workman Subodh Kumar had raised the grievance against the management over the issue of unfair labour practice termination from 19.07.2022 management. Record also shows that on receiving the reference order, this tribunal issued registered notice to the both the parties for appearance. This tribunal further finds that officer reported that the registered notice issued by this tribunal to the both parties is also not returned back but yet tribunal fixed several dates but on 25.10.2023 management representative Sri Mithilesh Nayak appeared and filed a petition regarding authority letter to filed on next date, so time may by given but on 16.03.2023 neither parties appeared before this tribunal then tribunal has several opportunities given to the both sides including last chance given to the both parties on 11.07.2023 fixing to appear in this case on 09.08.2023 but both the parties were absent then tribunal observed that both the parties are not looking interested in the instant reference but yet another opportunity was given to the both sides fixing on 24.08.2023. On 24.08.2024 both the parties again remained absent then tribunal hold that continuous absence of both the parties is itself indicative of the fact that both the sides are not at all interested in the instant reference case. Under aforesaid factual status of the case, this tribunal has no option than to pass " No Dispute Award". So "No Dispute Award" is passed in this case accordingly. This award is effected after date of publication in gazette. This is my award accordingly.

Dictated &Corrected by me.

Date : 27.09.24

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1962.—औद्योगिक विवाद अधिनियम 1947 ;1947 का 14 द्ध की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर बिहार ग्रामीण बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **नं 2 धनबाद** के पंचाट (01/2019) प्रकाि ात करती है।

[सं. एल–12025/01/2024–आई आर (बी–I)–225]

सलोनी, उप निदेशक

New Delhi, the 15th October, 2024

S.O. 1962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.01/2019*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No. -* 2 *Dhanbad* as shown in the Annexure, in the industrial dispute between the management of Uttar Bihar Gramin Bank and **their workmen.**

[No. L-12025/01/2024-IR(B-I)-225]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Dr.S.K.Thakur

Presiding Officer.

In the matter of an application under Sec.2-A(3) of the I.D.Act

APPLICATION NO. 01 OF 2019.

PARTIES Sri Vinay Kumar Tiwari & 485 Others

S/O Sri Rajnarayan Tewari

R/O At & PO: Baliya ,PS: Maharajganj,Distt Siwan ,

Petitioner

Vs.

i) Uttar Bihar Gramin Bank,

Muzafarpur,Bihar

Respondent

APPEARANCES :

On behalf of the workman/Union : Mr.D.Mukherjee Ld.Adv.

On behalf of the Management : Mr,R.R.Prasad , Ld.Adv.

State :Bihar **Industry: Banking**

Dated,Dhanbad,the 22nd,June,2023

O R D E R

I.D.Case No. 01/2019

1. On perusal of the application filed by the Petitioner it has been found that the present application has been filed after order of Hon'ble High Court at Patna Orders in the following cases:

(a) IN THE HIGHCOURT OF JUDICATURE AT PATNA

CIVIL WRIT JURISDICTION CASE NO. 8666 of 2017

1. Uttar Bihar Gramin Bank Mitra Association and 3 Ors

…….. PETITIONER

Vs.

The Union of India through Ministry of Labour & Employment ,Government of India, New Delhi through its Secretary and 5 Ors.

…….. RESPONDENT

CM: HONORABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER Date 11-04-2018

The Learned Counsel for the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the Labour Court.

In view of the aforesaid, the present writ petition is disposed of as withdrawn with liberty to the individually effected workmen to approach the competent Labour Court for adjudication of their disputes.

(Mohit Kumar Shah,J)

(b) IN THE HIGH COURT OF JUDICATURE AT PATNA

LETTERS PATENT APPEAL NO.237 OF 2018

CIVIL WRIT JURISDICTION CASE NO. 14389 of 2017

1. Uttar Bihar Gramin Bank Mitra Association through its president Vinay Kumar Tiwary

2. Vinay Kumar Tiwary S/o Raj Narayan Tiwary ,At/PO:Baliya Siwan & 2 Ors.

Versus

1. The Union of India through the Ministry of Finance, Jeevan Deep Building,Sansad Marg, New Delhi

2. The Secretary ,Department of Financial Services, Ministry of Finance,Jeevan Deep Building, Sansad Marg,New Delhi & 7 Ors.

ORAL ORDER

Per: (HONOURABLE THE CHIEF JUSTICE)

03-04-2018

Learned Counsel for the petitioner prays for permission to withdraw the appeal with liberty to raise an Industrial Dispute with regard to the issue in question under the Industrial Dispute Act., 1947.

The Letters Patent Appeal is permitted to be withdrawn with the aforesaid Dismissal of the appeal shall not come in the way of the appellant in raising the dispute under the Industrial Disputes Act and canvassing the grievance of employees concerned.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

……..

2. As per direction of the Hon'ble High Court, Patna in LPA No. 237/2018 the Petitioner was to raise an Industrial Dispute with regard to the issue in question under the Industrial Dispute Act, 1947.It is relevant to mention here that 1st petitioner in the said Letter Patent Appeal (LPA) was Utter Bihar Gramin Bank Mitra Association.

3. As per provisions under the Industrial Dispute Act 1947 the Petitioners should have raised the dispute for common cause under Industrial Dispute Act 1947 for a common cause for the members of the said Association which might be referred to the Tribunal by the Appropriate Government under Sec. 10(1) of the Industrial Dispute Act,1947.

4. Instead of raising dispute by the 1st Petitioner, Uttar Bihar Gramin Bank Mitra Association, for common cause for its members under Sec. 10(1) of the Industrial Dispute Act 1947 a combined application has been filed by one Shri

Vinay Kumar Tiwary ,President Uttar Bihar Gramin Bank Mitra Association under Section 2-A (3) of the Industrial Dispute Act 1947.

5. Provisions under Sec. 2 A are reproduced below for immediate reference :(2-A Dismissal. etc. of an Individual workman to be deemed to be an Industrial Dispute (1)Where any employee discharges,dismisses,retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of ,such discharge,dismissal,retrenchment or termination shall be deemed to be an individual dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.)

(2) Notwithstanding anything contained in Sec. 10,any such workman as is specified in Sub Sec. (1) may, make an application direct to the Labour Court or Tribunal for adjudication for the dispute referred to therein after expiry forty-five days from the date he has made an application to the Conciliation Officer of the appropriate Government for conciliation of the dispute and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of the Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an Industrial dispute referred to it by the appropriate Government.

(3) The application referred to in Sub-Sec.2 shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge ,dismissal, retrenchment or otherwise termination of service as specified in Sub. Sec. (1)

6. On perusal of the provision under Sec. 2-A, Sub Section 1 and Sub Section 2 it is clearly observed that those provisions have been made for individual workman. Provisions under Sec., 2-A(1 & 2) do not provide provision for making application direct to the Labour Court/Tribunal for adjudication of the dispute for a Group/Bunch of workmen.

7. As such filing of application by Uttar Bihar Gramin Bank Mitra Association for 486 persons together for a common cause grievance is not maintainable as per provisions of Sec.2-A(1) and Sec.2-A(2) of the Industrial Dispute Act,1947.

8. Accordingly application filed on 04.03. 2019 by the President ,Uttar Bihar Gramin Bank Mitra Association for 486 persons together is rejected.

9. However it is also found relevant to record here that this specific point over non-maintainability of the application filed by the Petitioners (Uttar Bihar Gramin Bank Mitra Association) could not be raised by the Management side and as such the matter proceeded for adjudication on merit from both sides which caused delay in taking the above decision by this Tribunal on non-maintainability of instant `application filed under Sec. 2-A(3) of the I.D.Act,1947 as submissions were perused by the Tribunal only after closure of the hearing on pleadings from both sides.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1963.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स के पी इंटरप्राइजेज, माइन ओनर ऑफ़ ठकुरानी आयरन ओरे माइंस** के प्रबंधतंत्र के संबद्ध नियोजकों और **नार्थ उड़ीसा वर्कर्स यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुबनेश्वर, पंचाट (रिफरेन्स न. 61/2002)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-29012/107/2001-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1963.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 61/2002)** of the **Central Government Industrial Tribunal cum Labour Court, Bhubaneswar** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Kay Pee Enterprises, Mine Owner of Thakurani Iron Ore Mines** and **North Orissa Workers Union** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-29012/107/2001-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 61/2002

Date of Passing Award – 2nd August, 2024

Between:-

The Management of the M/s. Kay Pee Enterprises,

Mine Owner of Thakurani Iron Ore Mines,

P.B. No. 3, At./Po. Barbil, Dist, Keonjhar, Odisha.

… 1st Party-Management.

(And)

Their Workmen represented through the

General Secretary, North Orissa Workers Union,

Po. – Barbil, Dist. – Keonjhar.

… 2nd Party-Union.

Appearances:-

Mr. Sanjay Kishore Jena, G.M.

… For the 1st Party-Management.

Mr. R.K. Pati, Secretary. … For the 2nd Party-Union.

A W A R D

This case has been referred to this Tribunal by the Government of India in the Ministry of Labour vide their Letter No. L-29012/107/2001-IR(M), dated 02.05.2002 and Letter No. L-29011-97/2001-IR(M) dated 02.05.2002 for adjudication of industrial dispute existing between the employers in relation to the management of Thakurani Iron Ore Mines, M/s. Kay Pee Enterprises, P.B. No. 3, At/Po. Barbil, Dist. Keonjhar and their workmen in respect of the matter shown under the schedule of the letter of reference which is reproduced below and is alike in both the cases.

> "Whether the demand of the North Orissa Workers Union that the Workmen (list enclosed) should be reinstated with full back wages is legal and justified? If not, to what relief the workmen are entitled to?"

2. Later a corrigendum was received in I.D. Case No. 62/2002 vide letter of even No. dated 03.10.2002 making modification in the schedule of the letter of reference of the above case which is registered as I.D. Case No. 62/2002. After modification the schedule is as follows:-

> Whether the demand of North Orissa Workers' Union for reinstatement of workman with full back wages w.e.f. 1.9.1999 (list enclosed) is legal and justified? If so what relief the workmen are entitled to?"

3. On the petition of the 2nd party-Union filed on 13.08.2003 for clubbing up I.D. Case No. 62/2002 with the I.D. Case No. 61/2002 on the ground that two cases have been registered on the self-same reference. On the prayer of the 2nd party-Union vide order dated 13.08.2003 I.D. Case No. 62/2002 was clubbed with I.D. Case No. 61/2002 for just and proper adjudication of both the cases.

4. It is required to mention here that this Tribunal has passed an award on dated 17.01.2013 which is as follows:-

> "……..that the disputant workmen are therefore, held entitled to the benefits flowing under section 25-O of the Industrial Disputes Act, and they will be deemed to be in continuous

employment of the 1st party-Management. They shall also be entitled to get Rs. 1.50 lacs each as compensations in lieu of back wages. The amount which had been received by the disputant workmen towards compensation and other dues will be adjusted in their future wages.

5. However, the Management M/s. Kay Pee Enterprises, Barbil has preferred a writ petition before the Hon'ble High Court of Orissa vide W.P.(C) No. 22482/2013 and the Hon'ble High Court of Orissa has been pleased to observe which is as follows:-

> "…….set aside the award and consequently the case has been remitted to this Tribunal with a direction for restoration of the file for a re-haring by the Tribunal in presence of the Management. It is further directed that the Management shall appear before the learned Tribunal on the date fixed duly intimated, where-after evidence shall be received without any delay. In order to ensure disposal of the proceeding at the earliest preferably within a period of eight weeks thereafter and if so moved, to allow cross examination of the witnesses, who have already examined by the Opposite Party Union. Furthermore, it is directed that before proceeding with the hearing and receiving evidence from the parties, the learned Tribunal shall direct due compliance of Section 17-B of the I.D. Act. In so far as the deposit of Rs. 25 lac by the Management is concerned, the same is directed to be re-deposited with the Tribunal along with interest, if any, accrued thereon, disbursement of which, shall be subject to the orders under section 17-B of the I.D. Act, if not already complied with or final result of the proceeding in the Industrial Dispute Case Nos. 61 and 62of 2002, as the case may be."

6. Now in view of the direction of the Hon'ble High Court of Orissa passed in W.P.(C) No. 22482/2013 the case record is restored for hearing.

7. The case of the 2nd Party-Union as per its statement of claim is as follows.

That the Management of M/s. Kay Pee Enterprises has taken Thakurani Iron Mines on lease basis and it appointed the disputant workmen (as per list enclosed) for the purpose of mining activities in the said mines. During the course of their employment the Management of M/s. Kay Pee Enterprises issued individual notices on the disputant-workmen on 24.06.1999 under Section 25-N of the Industrial Disputes Act. Thereafter the disputant workmen approached the Keonjhar Mines and Forest Workers Union, Barbil to prevent the Management from taking the action of illegal retrenchment of the workmen with effect from 0.10.1999. The aforesaid Union took up the matter before the competent labour authority pleading that there was sufficient mineral deposits in the said mines, so retrenchment of the entire poor tribal workmen was not required. After hearing of the parties the Government refused to accord permission for retrenchment as was informed by the said Union. After refusal of the government to accord permission for retrenchment the Management of M/s. Kay Pee Enterprises made a mischievous plan and tried to implement its ill intention to get rid of the disputant workmen. Further, the management of M/s. Kay Pee Enterprises some-how induced the disputant workmen through one of the office bearer of the Union and managed to take the signature/Left thumb impression (L.T.I.) of the disputant workmen on some written papers on 30.08.1999 without explaining the content of the same with payment to some amount to the workmen for maintenance of their family members during the idle period of the mines. The disputant workmen being illiterate put their thumb impressions on those papers after getting assurance form the Management that they would be engaged in the mines by March, 2000 when the mines would be re-opened for operation. In between the period commencing from 30.08.1999 and ending in March, 2000 the Management had sublet the operation of Mines to one SESSA – GOA without the knowledge of the disputant workmen. However, when the mines resumed its operation in March, 2000 and the crusher plant had restarted, the disputant workmen approached the Management for work, but they were refused to work in the mines and at crusher plant, instead they employed new outside workers for the work. Being deprived of their employment the disputant workmen filed a compliant before the labour machinery, Barbil. Having received no communication the disputant workmen made a representation on 10.04.2002 to the Chief Labour Commissioner (Central), New Delhi for redressal of their grievance who in turn directed the Regional Labour Commissioner (Central), Bhubaneswar to admit the dispute into conciliation. During conciliation proceedings the Management appeared once. Therefore, the conciliation proceedings ended in failure and after submission of failure report the government referred the dispute for adjudication to this Tribunal. Thus the action of the Management in terminating the services of the disputant workmen from 01.09.1999 is illegal and arbitrary and in violation of the provisions of the Industrial Disputes Act. The disputant workmen had worked with the Management continuously for more than ten years without any break. Therefore, the disputant workmen may be reinstated in their service with full back wages with effect from 01.09.1999.

The 2nd party-Union has prayed that the award may be passed in holding that the demand of North Orissa Workers' Union for reinstatement of all the 2nd Party-workmen (as per the list enclosed) in their services with full back wages with effect from 01.09.1999.

8. On the other hand the case of the Management M/s. Kay Pee Enterprises is as follows:-

That the 1st Party-Management M/s. Kay Pee Enterprises had made an application to the government seeking permission to retrench the workers of Thakurani mines with effect from 24.06.1999 as the mines had became less operative. Meanwhile the workers of Thakurani mines submitted their resignation letters individually as they felt that their earnings will drop. Subsequently there was a change in the decision and the workers were advised to reconsider their resignations, but they did not listen to the advice of the 1st party-Management and after consultation with the operating Union decided to pursue their resignations. The operating Union i.e. the Keonjhar Mines and Forest Workers Union representing the workmen also insisted for acceptance of their resignation and entered into an agreement regarding terms and conditions for acceptance of resignations on 25.08.1999. Subsequently the resignations were accepted under pressure from the workmen and the Union and payment of all dues including gratuity etc. was made to the workers from 30.08.1999. Later, on 01.09.1999 permission to retrench the workmen was not granted by the Government of India, Ministry of Labour. After receiving full and final payment workers never complained nor wanted resignations to be withdrawn. It has been admitted by the Union in their petition that workers had resigned from their work and they had been paid their admissible dues. Therefore, the claim of the 2nd party-Union is fabricated, illegal and untenable in law. The 1st Party-Management have further submitted that it is a clear case of voluntary resignation, not of retrenchment.

The 1st party-Management has prayed that the claim of the 2nd party is fabricated, illegal and not tenable in the eye of law and therefore prayed that the demand of the Union is liable to be rejected as not maintainable against them.

9. However, during the course of adjudication, both the parties have settled the present dispute out of court and filed original copy of their Memorandum of Settlement in Form-H.

10. Submitting the Memorandum of Settlement, both parties have prayed the Tribunal to close this case in terms of the settlement arrived at between them. The terms of Memorandum of Settlement executed between the Senior General Manager of M/s. Key Pee Enterprises and authorized representative of the 2nd party-Union are as under:-

1. That it is agreed between the parties that the management of M/s. Kaypee Enterprises shall pay to all the workmen (107) numbers an amount of Rs. 50,000/- (Rupees Fifty Thousand) only to each workers as back wages/final settlement.

2. That is simultaneously agreed by the parties that the management of M/s. Kaypee Enterprises shall prepare the demand draft for Rs. 50,000/- for each individual 107 workmen to the management. It is also agreed by and between the parties that those workers who have died in between the legal heir/dependent of the deceased workman shall be paid the agreed amount by the management.

3. That, after payment of settle amount of Rs. 50,000/- to 107 workers of the case this Secretary of the Union shall give his consent to the Hon'ble Tribunal for refund of Rs. 25,00,000/- along with accrued interest deposited before the Hon'ble Tribunal to the management of M/s. Kaypee Enterprises.

4. That, both the parties understand, agree and accept that this settlement is made with due volition and free from any influence and force from any corner and by virtue of present settlement both the parties settled their dispute amicably.

5. That, it is further agreed that both parties shall submit the memorandum before the Hon'ble Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar so as to pass an appropriate Award in I.D. Case No. 61/2002 in view of the amicably settlement.

6. That, the settlement amount of Rs. 50,000/- to each labour as full and final including Section 17-B of the I.D. Act. That neither the 2nd party-Union nor their Workmen shall claim any compensation in future.

11. It is required to mention here that during proceedings of the case the representative of the 2nd Party-Union moved a petition for splitting-up of the file in respect of sixty five numbers of workmen as rest of forty two workmen out of the total number of 107 as per the list sent with the schedule of reference are not appearing. On the prayer of the representative of the 2nd party-Union the case of present 65 number of workmen is split-up and a separate file of 42 numbers of non-appearing workmen is prepared.

12. Both the parties have submitted the original copy of their settlement in Form-H along with a joint petition with xerox copy of the money receipts before the Tribunal and have stated that the dispute - 9 -has been amicably compromised and settled with the 43 (forty-three) numbers of alive workmen whose names are as follows:-

S/Shri (1) Sushil Barik, (2) Fagu Charan Behera, (3) Balaram Palei, (4) Ransingh Tiria, (5) Guru Chattamba, (6) Dono Suren, (7) Mahendra Chattar, (8) Janmo Naik, (9) Kabiro Naik, (10) Binsu Munda, (11) Binod Chattar, (12) Dula Chattar, (13) Raju Naik, (14) Madan Munda, (15) Rilu Mohakud, (16) Sukram Lohar, (17) Soraram Lohar, (18) Siken Munda, (19) Janumsingh Munda, (20) Jajo Munda, (21) Suuru Suren, (22) Durgo Munda, (23) Bijay Tiria, (24) Mangal Munda, (25) Kirshan Munda, (26) Gangu Munda, (27) Puran Ch. Pallai, (28) Sunaram Patra, (29) Guru champia, (30) Srikar Tiria, (31) Ratnakar Naik, (32) Krushna Naik, (33) Khageswar Munda, (34) Berga

Munda, (35) Magan Munda, (36) Mangulu Munda, (37) Ramo Munda, (38) Kandey Mundra, (39) Ramo Gope, (40) Dukhabandhu Behera, (41) Durjodhan Behera, (42) Guru Charan & (43) Dibar Munda.

Both the parties have also submitted a joint petition along with xerox copies of the money receipt that 22 numbers of legal heirs of the deceased workmen who have amicably compromised and settled the dispute with the Management of M/s. Kay Pee Enterprises before the Tribunal and whose names are as follows:-

(1) Upasi Naik (Gobinda Naik-dead), (2) Chandani Naik (Lalmohan Naik-dead), (3) Binod Mahakud (Doyanidhi Mohakud- dead), (4) Gunia Munda (Pana Munda-dead), (5) Padma Munda Kirshan Munda-dead), (6) Abin Munda (Tunu Sirka-dead) (7) Dshama Munda (Tepe Munda-dead), (8) Apasori Devi (Shiv Kumar-dead), (9) Mangulu Munda (Kadai Munda-dead), (10) Nandi Munda (Berga Munda-dead), (11) Risa Mahakud (Bansi Mohakud-dead), (12) Tulasi Barik (Gaajendra Barik-dead), (13) Bimala Naik (Iswar Naik-dead), (14) Jatri Naik (Daitari Naik-dead), (15) Risa Munda (Taria Munda-dead), (16) Sudesh Munda (Pandu Munda-dead), (17) Shushila Munda (Kulan Munda-dead), (18) Sunei Munda (Raju Munda-dead), (19) Suresh Munda (Anu Munda-dead), (20) Raibari Munda (Suram Munda-dead), (21) Jadeshwar Pan (Benudhar Patra-dead), (22) Nandini Mahakud (Rushi Mahakud-dead).

13. Considering the facts and circumstances and the submissions of the parties of this case, the Tribunal is of the opinion that whatever dispute was existing in respect of above 65 disputants out of total 107 persons in the list of the 2nd Party-Union and the 1st Party- Management, the same have already been settled and no further adjudication is required under the Act. Hence this award is passed in terms of the Memorandum of Settlement arrived at between the 1st Party-Management and 65 numbers of the disputants out of 107 persons of the 2nd Party-Union.

14. The Memorandum of Settlement filed by the parties for 65 numbers of disputants out of 107 persons in the list of the 2nd party- Union in this case forms part of the award.

15. This is the part award of this Tribunal.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1964.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स ओएनजीसी मंगलौर पेट्रोकेमिकल्स लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ओएमपीएल आल एम्प्लाइज यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर, पंचाट (रिफरेन्स न. 18/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-30011/44/2019-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1964.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 18/2019)** of the **Central Government Industrial Tribunal cum Labour Court, Bangalore** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s ONGC Mangalore Petrochemicals Limited** and **OMPL All Employees Union** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-30011/44/2019-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT At HYDERABAD

DATED : 4th OCTOBER 2024

PRESENT : **Shri IRFAN QAMAR**

Presiding Officer

C R No. 18/2019 (CORRIGENDUM)

I Party	**II Party**
The General Secretary, OMPL All Employees Union, 2-1306, "Rejoice", Fisheries Road, Hosabettu, Kulai, MANGALORE – 576 019.	The Chief Executive Officer, M/s. ONGC Mangalore Petrochemicals Limited, MSFZ, Perumude, MANGALORE – 574 509.

Appearances

I Party : **Shri V S Naik**
Advocate

II Party : **Shri P D Vishwanath**
Advocate

1. The Government of India, Ministry of Labour vide Order No. L-30011/44/2019-IR(M) dated 16.12.2019 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as "The Act") (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

"Whether the action of the management of M/s. ONGC Mangalore Petrochemicals Limited, Mangalore in not implementing the pay as per IDA Pattern w.e.f. 28.02.2015 to 31.10.2018 as demanded by OMPL All Employees Union is proper, legal and justified? If not, to what relief the workers are entitled to? What other directions, if any, are necessary in the matter?"

2. After registering the case, due notices were issued to both the parties for appearance and fixing the date of hearing as 11.02.2020. During the course of the hearing 1st Party filed his claim statement on 11.06.2020 and on 21.12.2020 counsel for the 2nd Party filed his Counter Statement and the matter came to be posted for Evidence of 2nd Party. During the pendency of Industrial Dispute the 1st Party filed an Application for withdrawal to dismiss the above reference. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, the Counsel on record has filed an Application along with affidavit of the General Secretary of the Union dated 16.07.2024 in the present matter voluntarily. In Para-4 of the affidavit, it is deposed as

"4. I state that the said dispute was against the management of erstwhile IMPL and now as the incumbent management of MRPL has graciously agreed to grant benefits of better pay and welfare facilities in MRPL as demanded by the 1st Party Union amicably to our satisfaction through a Memorandum of Settlement (MoS) being executed, the First Party do not consider it appropriate and correct to pursue this case as it may be prejudicial to the interest of the workmen whom the First Party represent in this Case."

4. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo is allowed. Appellant is permitted to withdraw this Petition.

No Claim Award is passed. Reference is answered accordingly. Transmit.

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 4th October 2024)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1965.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स ओएनजीसी मंगलौर पेट्रोकेमिकल्स लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ओएमपीएल आल एम्प्लाइज यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर, पंचाट (रिफरेन्स न.-**

26/2024) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-133]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1965.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 26/2024)** of the **Central Government Industrial Tribunal cum Labour Court, Bangalore** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s ONGC Mangalore Petrochemicals Limited** and **OMPL All Employees Union** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. Z-16025/04/2024-IR(M)-133]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT At HYDERABAD

DATED : 13th AUGUST 2024

PRESENT : **Shri IRFAN QAMAR**
Presiding Officer

C R No. 26/2024

I Party	**II Party**
The General Secretary, OMPL All Employees Union, No. 1-59(3), Sri Durga House, Near Timber Mill, Bhatrakere, PO Permude, MANGALURU – 574 509	The Managing Director, M/s. ONGC Mangalore Petrochemicals Limited, (merged with Mangalore Refinery and Petrochemical Limited), Kuthethoor, MANGALORE – 575 030.

Appearances

I Party : **Shri V S Naik**
Advocate

II Party : **NIL**

1. The Government of India, Ministry of Labour vide Order No. 95(FOC/26)2024-B4 dated 26.06.2024 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as "The Act") (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

"Whether OMPL All Employees Union is justified in raising the 12 demands as per its revised final charter of Demands (Period of Settlement, Change in Designation Name, Pay Scale, Service Weightage, Fixation in new pay scale and fitment, Increment, House rent allowance, Dearness allowance, Cafeteria Approach, Shift Allowance, Special compensatory day off allowance, Superannuation benefits) put forward before the management of ONGC Mangalore Petrochemicals Limited, now merged with Mangalore Refinery Petrochemicals Ltd? If yes, to what relief the said union is entitled to?"

2. After Registering the matter even before the notices were issued to parties the Counsel for the 1st Party Union General Secretary has filed Application dated 16.07.2024 for Withdrawal of the dispute alongwith Affidavit stating that the matter may be dismissed as voluntarily withdrawn, hence, they would be withdrawing the present dispute.

3. Perused the records, the Counsel for 1st Party has filed Application dated 16.07.2024 in the present matter voluntarily. In Para-4 of the affidavit, it is deposed as

"4. I state that the said dispute was against the management of erstwhile IMPL and now as the incumbent management of MRPL has graciously agreed to grant benefits of better pay and welfare facilities in MRPL as demanded by the 1st Party Union amicably to our satisfaction through a Memorandum of Settlement (MoS) being executed, the First Party do not consider it appropriate and correct to pursue this case as it may be prejudicial to the interest of the workmen whom the First Party represent in this Case."

4. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo is allowed. Appellant is permitted to withdraw this Petition.

No Claim Award is passed. Reference is answered accordingly. Transmit.

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 13th August 2024)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1966.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स आनंद ग्रेनाइट एक्सपोर्ट्स प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री ए. मल्लण्णा** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न. 154/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-132]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1966.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 154/2013)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Anand Granite Exports Pvt. Ltd.** and **Shri A. Mallanna** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. Z-16025/04/2024-IR(M)-132]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: Sri Irfan Qamar,
Presiding Officer

Dated the 25th day of September, 2024

INDUSTRIAL DISPUTE L.C.No. 154/2013

Between:

Sri A. Mallanna,
S/o Rajalingu,
Garikamittla Village,
Opp: Bus Stand, Chimakurthy Post,
Prakasam District. ..……Petitioner

AND

1. Sri Parvath Reddy Anand,
S/o Narasimha Rao, Chairman
M/s. Anand Granite Exports Pvt. Ltd.,
H.No.58-12-2, Municipal High School Road,
Santhapet, Onlgole, Prakasam District.

2. The General Manager,
M/s. Anand Granite Exports Pvt. Ltd.,
H.No.58-12-2, Municipal High School Road,
Santhapet, Onlgole, Prakasam District. …….Respondents

Appearances:

For the Petitioner : M/s. S. Prabhakar Reddy & S. Rajeshwari, Advocates

For the Respondent: M/s. C. Niranjan Rao, M. Subramanya Sastry & R. Trinath, Advocates

AWARD

The Petitioner who was an employee of Respondent No.2 has filed this Petition invoking Sec.2 A (2) of the I.D. Act, 1947, seeking for declaring the order dated 10.12.2012 issued by the Respondent No.2 as illegal, arbitrary and to set aside the same and to grant consequential relief of reinstatement to the Petitioner into service duly granting of other consequential benefits such as, continuity of service, back wages, along with all other attendant benefits.

2. Respondent filed counter.

3. The Petitioner filed a memo stating that the matter was settled with the Management and accordingly Management paid Rs.5,00,000/- (Rupees five lakhs only) by way of Demand Draft to Petitioner. It is further stated in the memo that in view of the settlement, he does not want to continue and case be dismissed as withdrawn. Thus, the memo filed by the Petitioner is allowed and he is permitted to withdraw his case as prayed in the memo.

Award passed in terms and conditions of memo filed by the Petitioner accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 25th day of September, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1967.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **आंध्रा सीमेंट कंपनी स्टाफ एंड वर्कर्स यूनियन ए.पी. दुर्गा सीमेंट वर्क्स** के प्रबंधतंत्र के संबद्ध नियोजकों और **आंध्रा सीमेंट कंपनी (जेपी ग्रुप)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न.-** एमपी **24/2012)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. जेड-16025/03/2024-आईआर(एम)-4]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1967.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. MP 24/2012)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Andhra Cement Company Staff & Workers Union A.P. Durga Cement Works** and **Andhra Cement Company (Jaypee Group)** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. Z-16025/03/2024-IR(M)-4]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, HYDERABAD

Present: - Shri **Irfan Qamar**,

Presiding Officer

Dated the 21st day of August, 2024

M.P. No. 24/2012

Between

Name of Petitioner	S/o
1. Y.Venkataswarlu	Y Pitchaiah
2. YRSV Prasada rao	Hanumaiah
3. SVVPrasad	Krishnaiah
4. K Sanjeeva reddy	Koti Reddy
5. m G Sivaiah	Poornaiah
6. N Sridhar babu	Krishna Rao
7 . S Srinivasa rao	Gopal Ratnam
8. G Kondaiah	Rama Kotaiah
9. V Krishna mohan	Kodanda Pani
10. AVLN Prasad	ARK Murthy
11. AV Kotaiah	Sambasiva Rao
12. AVS Rao	Vara Prasada Rao
13. BS Vardhan rao	Kishore
14. TVenkateswarlu	Subba Rao
15. Sk China vali	Peda Saida
16. NSC Babu	Jacob
17. CHV Ramana Murthy	Sri Ram Murthy
18. MSharma	Siva Kumar sharma
19. D Ravikumar	Veera Brahma Chari
20. K Satyanarayana	Soma Sundaram
21. D Sambasivarao	Veeraiah
22. B Venkateswarlu	Venkata Swami
23. Sk Meera	Pakeer Saheb
24. P Bhaskar rao	Atchiah
25. A Ramajogarao	Krishna Murthy
26. KAhmed	Abdul Rahmad
27. D Anjaiah	Chenchaiah
28. GV Rangarao	Kotaiah
29. D Nagesswararao	Veera Raghavulu
30. MYesobu	Ramaiah
31. Pole. Dasu	Ramuluy

32. K Davidraju	Lakshmana Rao
33. V Issac	Peda Yahon
34. T Narasimharao	Veera Swamy
35. M Narayana	Mangaiah
36. P China Israel	Danam
37. Sk Kasim sahed	Galib Saheb
38. K Hanumantha rao	Dharma Rao
39. G Joseph raju	Deve Sahayam
40. K Venkataswarlu	Dasaradha Ramaiah
41. KVenkateswara rao	Purushotham
42. D Sarath	Krishnad
43. Sd Yadav	Chandre Dev Yadav
44. MS Sharma	Peda Venkateshwariu
45. Sk Noora	Peda Saida
46. John	Pakeer Saheb
47. B Anada Rao	Somulu
48. S Chodappa	Gurappa
49. K Ramalingaiah	Venkteshwarlu
50. B Veeraiah	Mattapalli
51. S Srinivasa Rao	Subramanyeshwar Rao
52. PN Rao	Sarvaiah
53. V Ch Rama Koti	Sri Ramulu
54. O Nageswara Rao	Lakshmaiah
55. V Kotaiah	Guravaiah
56. D Narayana	Polaíah
57. D Ram Prasad	Bala Koteshwar Rao
58. Sk Hussain	Md Ali
59. S Krishna	Lashmaiah
60. P Nageswara Rao	Kannaiah
61. G Sambasiva Rao	Krishnaiah
62. J Nageswara Rao	Kondaiah
63. T Maraiah	Kotaiah
64. Ch Ramulu	Guruvulu
65. Ch enkateswarlu	Narayana
66. K Govindarao	Guravaiah
67. P Parameswara Rao	Jacob
68. G Prasada Raju	Venkata Raju
69. P Veeraiah	Venkaiah
70. B Sambaiah	Mattaiah
71. Y Raami Reddy	Saida Reddy
72. Y Chennaiah	Latchaiah

73. V Ramaiah	Appaiah
74. B Kesavalu	Ramji Naik
75. P Ramulu	Abraham
76. P Subba Raju	Pullam Raju
77. N Guruvulu	Kanakaiah
78. B Rajanaik	Bheemla Naik
79. KVkrishna Rao	Venkateshwarlu
80. M Venkata Reddy	Guruva Reddy
81. Pole Ramulu	Nagaiah
82. Y Nageswara Rao	Saidulu
83. T Venkatappaiah	Yelamanda
84. Bhija Mohan Singh	Gorak Singh
85. N Nagabhushanam	Venkateshwarlu
86. ChV Ramaraju	Panakalu
87. TVeera Raghavulu	Rangaiah
88. B Gurava Raju	Veera Swamy
89. G Sivaji	Rama Kotaiah
90. MV Bhaskar Rao	Prabhu Das
91. V Ananda Rao	Robert
92. P Venkateswarlu	Papaiah
93. G Pavan Kumar	Basava Punnaiah
94. B Gabrunaik	Latchi Ram Naik
95. P Vishwanadha Rao	Kameshwar Rao
96. G Tirupathi	Ganapathi
97. V Prabakjar Rao	Koteshwar Rao
98. S Yesu Das	Samuel
99. V Yesaiah	Aseervadam
100. Ch Papaiah	Arlappa
101. Y Rama Rao	Venkata Ramaiah
102. T Gangaiah	Saiduiu
103. Ch Peturu	Lazar
104. G VK Raju	Venkata Raju
105. REmmanuel	Dibbaiah
106. D Kasaiah	Venkata Swamy
107. Sk Madar Saheb	Mastan
108. V Narsi Reddy	Linga Reddy
109. P Yesudanam	Yacob

The Secretary,
The Andhra Cement Company Staff & Workers Union A.P.
Durga Cement Works, Durgapuram,
Dachepally (Mandal), Guntur District. … ...Petitioners

And

The Managing Director
The Andhra Cement Company
(Jaypee Group),
Durgapuram, Dachepally (Mandal)
Guntur District, A.P. … .. Respondent

Appearance:

For the Petitioner : Sri B.S.R. Murthy , Advocate

For the Respondent : M/s. Ch. Ramesh Babu & Ch. Uma Sankar, Advocates

ORDER

Present petition is filed by the Petitioners whose names bear from Sl.No.1 to 109 in the petition under Sec.33 C(2) of the Industrial Disputes Act, 1947 represented by its Secretary, The Andhra Cement Company Staff & Workers Union, Durga Cement Works, Durgapuram, Dachepally (Mandal), Guntur District against The Andhra Cement Company (Jaypee Group), Durgapuram, Dachepally (Mandal), Guntur District, with the prayer to compute the money payable to these Petitioners and direct the Respondent to pay the same to the Petitioners and pass such orders as the Court may deem fit.

2. **The brief facts of the application are** :- It is submitted that all the Petitioners are the workmen in the Andhra Cement industry and sister concerns M/s Durga Cement Works, and M/s Duncan Goenka Group of Industries Dachepalli, Guntur District in the group of Jaypee. All the production and manufacturing activities have been completely ceased by the Andhra Cements along with it's sister concerns for the period of 7.7.2010 to 15.2.2012 (20 months). It is submitted that the previous management i.e. M/s Duncan Goenka Group Of Industries have not been in operation since 7.10.2010 due to incurring huge accumulated financial losses which is not at all concerned unless the management declared lockout or lay off under the provisions of industrial laws. It is submitted that it lead to transfer of the undertaking M/s Jaypee Development Corporation w.e.f. 16.2.2012. The Respondent has revived the unit w.e.f. 16.2.2012. It is submitted that the Petitioners are the members of Andhra Cement Company Staff & Workers Union and they are working in the Respondent Company. The Respondent company used to pay the salaries to all the staff and workers without any cause but it was suddenly stopped paying the salaries to workers from 7.7.2010 upto 16.2.2012 on which date the unit was revived. Further, it is submitted that the stopping of the salaries to the workers during the period from 7.7.2010 to 15.2.2012 without intimation to the workers and not declared lockout / lay off, is illegal and contra to the provisions of the ID Act. Hence the workers and staff members are entitled to full salaries for the period from 7.7.2010 to 15.2.2012. It is submitted that the Respondent has paid full salaries to each and every worker and staff member upto 6.7.2010 and thereafter revival of the unit, the management has paid full salaries to each and every staff member from 16.2.2012 onwards. It is submitted that the management has entered into an agreement on 6.3.2012 under Section 18(1) of the ID Act, 1947 with another union i.e., Andhra Cement Company Employees Union (Reg. No 208) which is not recognized union at the time of said agreement. Though the petitioner union i.e., Staff & Workers of Andhra Cement Company is a union, the management has not called the said petitioner's union for entering into the said agreement, which is illegal and unfair under the industrial laws. Hence, the said agreement entered with the other union i.e., Andhra Cement Company Employees Union , is illegal and not binding on the staff and workers working in the unit. 5 It is submitted that for industrial peace and to run smooth functioning of the industry, the petitioner union has instructed all the workers and staff members to receive the 75% wages offered by the management without causing any hindrance to the working of the unit. Since all the workers and staff members are poor men and facing lot of financial troubles due to leading their establishments, they have received 75% salaries offered by management for the period from 7.7.2010 to 15.2.2012. They are entitled for balance 25% of salaries for the said period. The agreement entered u/s 18(1) of ID Act by the management with the other union and without calling the petitioner union is illegal. The union of the petitioner has made a representation orally to the Respondent but the Respondent has not responded to the request of the petitioner. Thereafter the union of the petitioner made a representation to the Joint Commissioner of Labour, Government of Andhra Pradesh, Guntur & to the Assistant Commissioner of Labour, Hyderabad vide letter dated 6.3.2012 and the same was pending. The copies of the agreement, representation dated 6.3.2012 and the authorization given to Shri Y.S. R.V. Prasad Rao, Secretary, by the president of the staff and workers union are filed along with this petition. It is submitted that since it is not fault of the workers and staff members Working in the unit and the management has ceased out the production to M/s Jaypee Group, all the Petitioners are entitled to balance 25% of the salaries from the management for the period from 7.7.2010 to 15.2.2012 (20 months). Therefore, the Petitioners pray to compute the money payable to each Petitioner and direct the Respondent to pay the same.

3. Notice sent to the Respondent and Respondent filed counter wherein it is submitted that proceedings under section 33 C (2) of 1.D.Act is in the nature of execution proceedings and as such the present claim made by the Petitioners is totally beyond the scope and ambit of section 33 C(2) of the I.D. Act. It is submitted that the claim made by the Petitioners by way of questioning settlement arrived between Management and its workmen under

Section 18(1) of ID Act that to after receiving the benefits thereunder by the Petitioners along with other workmen. Such relief and/or consequential relief of recovery of wages is not maintainable. In fact the jurisdiction under Section 33 C (2) of I.D. Act is not available for determination of the correctness of the settlement and consequently power to proceed to adjudicate the amount claimed for recovery. The Petition filed under section 33 C (2) of I.D. Act claiming certain amounts by the Petitioners/workmen belongs to an unregistered union without showing the adjudicatory rights for recovery of the amount claimed. Hence the claim is beyond the scope and ambit of Section 33C (2) of I.D. Act. All the claims due under law and/or under a statute can be recovered invoking under Section 33 C (2) of I.D. Act but not the disputed claim for adjudication and recovery. It is submitted that M/s.Durga Cements Works, situated at Dachepally, Guntur District, Visakha Cements Works, situated at Gopalapuram, Visakhapatnam are two plants of M/s.Andhra Cements Ltd. manufacturing cement, suspended its entire activities in the said plant w.e.f., 7/7/2010 and 5/9/2010 respectively on account of the disconnection of power supply and unable to generate funds. The said situation continued till 5/3/2012. The workmen employed in the said two plants have claimed wages and filed certain cases pending on various courts. It is submitted that Jaypee Group of companies have negotiated with M/s.Andhra Cements Ltd., to takeover the management of both the plants and as part of the same, invited the workmen represented by the recognized union to settle their grievances and to resume the activities suspended (more than 1½ year back) in the said two plants. In fact various meetings were held between the Management of Andhra Cements Ltd., (Jaypee Group) and the Andhra Cements Employees Union, (affiliated to INTUC), represented by M/s.Durga Cements Works and Visakha Cements Works during January, 2012 and February, 2012 but the same were not fruitful and that the conciliation officer (Additional Commissioner of Labour, Hyderabad) has informed both the parties that he will refer the dispute to Government for adjudication thro' Industrial Tribunal. It is submitted that in the said circumstances the union representing workmen of both the plants revived their proposals and bargained with Management to receive 75% of the wages for the period both the plants has suspended its activities from July, 2010 to 15/2/2012 insofar M/s.Durga Cements Works and from 5/9/2010 to 15/11/2011 insofar M/s. Visakha Cerments Works, towards full and final settlement of their claim towards wages for the said period and on acceptance of the said proposal, agreed to sign the settlement. Though the Management is not comfortable with the offer as the payment of wages against no work no pay in the given circumstances, it is not justifiable, yet in all fairness and as a good gesture, the Management agreed to pay 75% of wages for the suspended period (the factories closed without any work or business/production). Accordingly that on 6/3/2012 both the Management as well as Andhra Cements Employees Union affiliated to INTUC, represented both the plants, have settled all the terms and conditions, reduced into writing and signed the settlement in Form No.H, prescribed under Rule 60 of the Industrial Disputes (Central) Rules Act, 1947, under Section 18(1) of ID Act. It is submitted that in terms of the settlement, all the permanent workmen employed by M/s.Andhra Cements Ltd., in respect of both the plants including the Petitioner workman herein paid and that they have received the amounts settled under the said settlement but the Petitioner/workmen being a portion of workforce thought fit to raise this type of fishing litigation for the reasons best known to them. It is submitted that various contentions raised in para 4 are not sustainable since the settlement dated 6/3/2012 entered under Section 18(1) of the ID Act was by and between the Management of Andhra Cements Ltd., (Jaypee Group) vs the Workman of Andhra Cements company (Jaypee Group) represented by Andhra Cements Company Employees Union affiliated to INTUC and all the workmen including the Petitioners herein being the workman of Andhra Cements Ltd., (Jaypee Group) have received the benefits under settlement cannot be permitted to turn round and question that the settlement as illegal, unfair and it is not binding on them. At any rate, the claim set-out by the Petitioners is not for a bonafide purpose having derived the benefit under settlement and withholding the said amounts. Hence denied. It is further submitted that various contentions taken are not sustainable and as such the Petitioners are not entitled for the 25% of wages during the closure period having settled the dispute for payment of 75% of wages during the no work no pay period and signed the settlement under Section 18(1) of the ID Act and received the benefits thereunder particularly when the proposal has came-up from the workman to sign the settlement when the Conciliation Officer intend to refer the dispute for adjudication So as to pass an award as to whether the workmen are entitled for wages for the period in which the manufacturing activity suspended and there is no work to the workmen to work in the said period. Hence all the adverse allegations made are hereby denied. It is submitted that in fact the settlement signed by the recognized union with the management is binding on all the registered union and the workmen claimed by them as its members. At any rate, having accepted and received the benefits under the settlement by the Petitioners, they cannot turn round and contend that the settlement is not binding and they are entitled for full wages. Law is well settled that Section 33 C (2) of ID Act is not meant for that purpose. Therefore, prayed to dismiss the claim petition.

4. **<u>On the basis of rival pleadings of both the parties following points emerge for determination</u>**:-

I. Whether the petition filed by the Petitioners through union representative is maintainable under Sec.33 C(2) of the I.D. Act, 1947?

II. Whether the Petitioners are entitled to claim of remaining 25% of the wages for the closure period of the Company from 7.7.2010 to 16.2.2012?

5. Petitioners in oral evidence has examined WW1 Sri Y.R.S.V.Prasada Rao and also exhibited three documents. Ex.W1 is the Memorandum of Settlement, Ex.W2 is the representation dated 6.3.2012 by General Secretary of Staff and Workers Union to the Joint Commissioner of Labour, Guntur, Ex.W3 is authorization letter given to Sri YRSV Prasada Rao by President of Andhra Cement Company Staff and Workers Union to give evidence in Tribunal. Respondent did not file any evidence.

FINDINGS:-

6. **Point No.I**:- Respondent in his counter has contended that the scope and ambit of the Section 33C(2) is meant for recovery of the amount on the basis of an award/settlement/benefits previously adjudged/ duly provided for. The claim of the Petitioners/ Workmen is for unpaid wages during the period in which the Respondent company was closed. Hence, investigation as to determination of the right to relief or corresponding liability is outside the scope of the Section 33C(2) of I.D. Act, 1947. Further, it is submitted that proceedings under Section 33 C(2) of the ID Act is in the nature of execution proceedings and as such, the present claim made by the Petitioners is totally beyond the scope and ambit of Section 33C(2) of the I.D. Act. It is prayed that the present petition is liable to be dismissed on this ground only.

7. Further, it is submitted that the claim made by the Petitioners under Section 33C(2) of the ID Act is by way of questioning the settlement arrived between the management and its Workmen under Section 18(1) of the I.D. Act, 1947 that too after receiving the benefits therein by the Petitioners along with other Workmen. Such relief and/or consequential relief of recovery of wages is not maintainable. In fact, the jurisdiction under Sec.33C(2) of the I.D. Act is not available for determination of the correctness of the settlement and consequently power to proceed to adjudicate the amount claimed for recovery only. Further, it is contended that the petition filed under Sec.33C(2) claiming certain amounts by the Petitioners/ Workmen belongs to an unregistered union without showing the adjudicatory rights for recovery of the amount claimed. Hence, the claim is beyond the scope and ambit of the Sec.33C(2) of ID Act. Further, it is submitted that all the claims due under law and /or under a statute can be recovered invoking Sec. 33C(2) of ID Act but not the disputed claim for adjudication and recovery. Further, Respondent contented that various contentions raised are not sustainable since the settlement dated 6.3.2012 entered under Section 18(1) of the ID Act was by and between the management of Andhra Cements Ltd.,(Jaypee Group) vs. the Workman of Andhra Cements Company Employees Union affiliated to INTUC and all the workmen including the Petitioners herein being the Workman of the Andhra Cements Ltd.,(Jaypee Group) have received the benefits under settlement cannot be permitted to turn around and question that the settlement as illegal, unfair and it is not binding on them. At any rate, the claim set out herein by the Petitioners is not for a bonafide purpose having derived the benefit under settlement and withholding the said amount. Hence, all the adverse allegations made by the Petitioners is here by denied. Further, it is contended that Petitioners are not entitled for 25% of wages during the closure having settled the dispute for payment of 75% of wages during the no work no pay period and signed the settlement under Section 18(1) of the I.D. Act and received the benefits thereunder, particularly when the proposal has came up from the Workman to sign the settlement when the conciliation officer intended to refer the dispute for adjudication so as to pass an award as to whether the workmen are entitled for wages for the period in which the manufacturing activity is suspended and there is no work to the work men to work in the said period. The settlement signed by the recognised union with the management is binding on all the registered unions and the workmen claimed by them as its members. At any rate, having accepted and received the benefits under the settlement by the Petitioners, they cannot turn round and contend that the settlement is not binding and they are entitled for full wages.

8. Before delving into the question of entitlement of the Petitioners for the wages for the period between 7.7.2010 and 16.2.2012, it would be apposite to make reference of relevant provision contained under Section 33C(2) of the I.D. Act, 1947, extracted as below:-

The provision of Sec. 33C(2) provides that,

" (2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; within a period not exceeding three months Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit."

Thus, according to the provision contained u/s 33C(2), there should be prior entitlement of the applicant to receive from employer any money or any benefit.

9. As per record, it is admitted fact between the parties that during regime of previous management i.e., M/s.Durga Cement works under the management of M/s.Andhra Cements Ltd., of Duncan Goenka Group of Industries was not in operation for the period from 7.7.2010 to 16.2.2012. Respondent management M/s. Andhra Cements Ltd.,(Jaypee Group) has taken over the said unit w.e.f. 17.2.2012 and paid the salary to the workmen. It is admitted that Respondent entered into a settlement agreement on 6.3.2012 under Section 18(1) of Industrial Disputes

Act with workers union, Andhra Cements Employees Union Registered No. 208. The clause 3 of Memorandum of Settlement dated 6.3.2012 provides,

" It is agreed between the management and union/workmen that wages with VDA for the period of non-operation of the Plants for all the Wage Board covered permanent workmen on company rolls will be paid @ 75% for the period from 7th July 2010 to 15th February 2012 for DCW and from 5.9.2010 to 15.11.2011 for V.C.W. workmen, after making necessary statutory deductions and deductions of advances paid to the workmen in accordance with the provisions of law."

10. Thus, as per Memorandum of Settlement Ex.W1 which has been executed between the parties under Section 18(1) of the I.D. Act, the Petitioners herein have received 75% of the wages for the closure period from 7th July 2010 to 16th February 2012. The Memorandum of Settlement, Ex.W1 is equally binding not only on the members of the unions but also upon rest of workmen of the unit. Since the Petitioners after 16.2.2012 has become the employees of the Respondent Management M/s. Andhra Cements Ltd.,(Jaypee Group), hence Memorandum of Settlement signed by the union is also binding upon the Petitioners. Admittedly, as per Memorandum of Settlement, the Petitioners herein have already received 75% of wages for the closure period of the industries, i.e., 7.7.2010 to 15.2.2012. As these Petitioners have already accepted and received 75% of the wages for closure period under the terms and conditions of Memorandum of Settlement i.e., Ex.W1 and by their said conduct they have also consented to Memorandum of Settlement, Ex.W1. Now they are estopped to claim further remaining 25% of the amount regarding their wages through the petition.

11. **A**s Petitioners have already received 75% of the wages therefore, they cannot make a fresh claim under Sec.33C(2), through the present petition unless there is a settlement or an award in favour of Petitioner claimants. But the Petitioners has not filed any settlement or award of competent court to claim remaining 25% of the salary for such closure period. Therefore the petition filed by the Petitioners for claiming the rest 25% of the salary is beyond the ambit and scope of the provision under Sec.33C(2) of I.D. Act, 1947 and is not maintainable.

As regards, binding force of Memorandum of Settlement executed under Sec.18(1) of I.D. Act, I would like to make reference of the decision of Supreme Court **in the case of Erumeli Estate Vs. Industrial Tribunal and ors. 1962(II) LLJ, page 144, wherein Hon'ble Court have held:-**

"It is now well settled that an industrial dispute can be raised in regard to any matter only when it is sponsored by a body of workmen acting through a union or otherwise. an Industrial dispute is thus raised and is decided either by settlement or by an award, the scope and effect of its operation is prescribed by Section 18 of the Act. Section 18(1) provides that a settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement; whereas Section 18(3) provides that a settlement arrived at in the course of conciliation proceedings which has become enforceable shall be binding on all the parties specified in Clauses (a), (b), (c) and (d) of Sub-section (3). Section 18 (3)(d) makes it clear that where a party referred to in Clause (a) or (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment as the case may be, to which the dispute relates on the date of the dispute, and all persons who subsequently became employed in that establishment or part, would be bound by the settlement. In other words, there can be no doubt that the settlement arrived at between the appellant and the employees' union during the course of conciliation proceedings on 25 February 1954, would bind not only the members of the said union but all workman employed in the establishment of the appellant at that date. That inevitably means that the Respondents would be bound by the said settlement even though they may belong to the rival union. In order to bind the workmen it is not necessary to show that the said workmen belong to the union which was a party to the dispute before the conciliation. The whole policy of Section 18 appears to be to give an extended operation to the settlement arrived at in the course of conciliation proceedings, and that is the object with which the four categories of persons bound by such settlement are specified in Section 18, Sub-section (3). In this connection we may refer to two recent decisions of this Court where similar questions under Sections 19(6) and 33(1)(a) of the Act have been considered. Vide Associated Cement Companies, Ltd., Porbander v. their workmen. Civil Appeal No. 404 of 1958 dated 3 March 196o [1960 I L.L.J. 491] and New India Motors (Private), Ltd. v. K.T. Morris, Civil Appeal No. 124 of 1960 dated 22 March 1960 [1960 I L.L.J. 551]."

Further, in the case of **King Airways vs.Captain Manjeet Singh, date of decision 12.2.2013, the Hon'ble Supreme Court of India have held,**

"If a settlement has been duly reached between the employer and his employees and it falls under S. 18(2) or (3) of the Act and is governed by S. 19(2), it would not be open to an employee, notwithstanding the said settlement, to claim the benefit as though the said settlement had come to an end. If the settlement exists and continues to be operative, no claim can be made under S.33C(2) inconsistent with the said settlement. If the settlement is intended to be terminated, proper steps may have to be taken in that behalf and a dispute that may arise thereafter may have to be dealt with according to the other procedure prescribed by the act. Thus, our conclusion is that the scope of S. 33C(2) is wider than S.33C(1) and cannot be wholly assimilated with it, though for obvious reasons, we do not propose to decide or indicate what additional cases would fall under S. 33C(2) which may not fall under S. 33C(1). In this

connection, we may incidentally state that the observations made by this Court in the case of Punjab National Bank Ltd.(1962) I LLJ 234 (vide supra), that S. 33C is a provision in the nature of execution, should not be interpreted to mean that the scope of S.33C(2) is exactly the same as S.33C(1)."

Further, **the Hon'ble Supreme Court of India in the case of National Engineering Industries Ltd., Vs. State of Rajasthan 2000(1) SCC page 371** have held:-

"When a settlement is arrived at during the conciliation proceedings it is binding on the members of the Workers' Union as laid down by S. 18(3)d) of the Act. It would ipso facto bind all the existing workmen who are all parties to the industrial dispute and who may not be members of unions that are signatories to such settlement under S. 12(3) of the Act. The Act is based on the principle of collective bargaining for resolving industrial disputes and for maintaining industrial peace:"

Thus, in view of the law laid down by the Hon'ble Apex Court as cited above, the Memorandum of Settlement i.e., Ex.W1 is equally binding upon the Petitioners though they were not signatory to it. Thus, settlement arrived at between the Respondent Management and its workmen is equally binding upon the Petitioners. Moreover, they have received 75% of wages of closure period and now they are estopped to claim remaining 25% of wages for the said period.

Further, as regard the scope and ambit of provision of Sec.33C(2) of I.D. Act, 1947, the Hon'ble Supreme Court of India, in the case of **State of Uttar Pradesh & Anr. Vs. Brijpal Singh, 2006 AIR SCW page 66, have held,**

"It is well settled that the workman can proceed under Section 33C(2) only after the Tribunal has adjudicated on a complaint under Section 33A or on a reference under Section 10 that the order of discharge or dismissal was not justified and has set aside that order and reinstated the workman. This Court in the case of Punjab Beverages Pvt. Ltd. Vs. Suresh Chand, (1978) 2 SCC 144 held that a proceeding under Section 33C(2) is a proceeding in the nature of execution proceeding in which the Labour Court calculates the amount of money due to a workman from the employer, or, if the workman is entitled to any benefit which is capable of being computed in terms of money, proceeds to compute the benefit in terms of money. Proceeding further, this Court held that the right to the money which is sought to be calculated or to the benefit which is sought to be computed must be an existing one, that is to say, already adjudicated upon or provided for and must arise in the course of and in relation to the relationship between the industrial workman, and his employer. This Court further held as follows:

"It is not competent to the Labour Court exercising jurisdiction under Section 33C(2) to arrogate to itself the functions of an industrial tribunal and entertain a claim which is not based on an existing right but which may appropriately be made the subject matter of an industrial dispute in a reference under Section 10 of the Act."

Therefore, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, Petition filed by the Petitioners through representative of the Union is not maintainable under Sec.33C(2) of the ID Act.

This point is answered against the Petitioners and in favour of the management.

12. **Point No.II**:- In view of the fore gone discussion and finding given at Point No.I, Petitioners are not entitled to any relief as this petition is not maintainable under Sec.33C(2) of I.D. Act, 1947 and the claim petition is liable to be dismissed.

This Point is answered accordingly.

ORDER

Therefore, in view of the fore gone discussion and findings given at Points No. I & II, the Petitioners' application u/s 33C(2) of I.D. Act, 1947 is not maintainable under Sec.33C(2) of the I.D. Act, 1947. As such, the petition stands dismissed.

Ordered accordingly.

Dictated to Smt P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this 21st day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Y.R.S.V. Prasada Rao	NIL

Documents marked for the Petitioner

Ex .W1: Photostat copy of Memorandum of Settlement

Ex.W2: Photostat copy of representation dated 6.3.2012 by Gen.Secy of the Staff and Workers union to the Joint Commissioner of Labour, Guntur.

Ex.W3: Photostat copy of authorization letter issued to WW1 to give evidence in the Tribunal

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1968.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एलआईसी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री वी. अनिल कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न. 103/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-17012/23/2014-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1968.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 103/2014)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **LIC of India** and **Shri V. Anil Kumar** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-17012/23/2014-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 23rd day of September, 2024

INDUSTRIAL DISPUTE No. 103/2014

Between:

Sri V. Anil Kumar

S/o V. Ramarao

D.No: 46-1-12/7,

Womangulleriwada, Danaviapeta,

Rajahmundry-533103.

Petitioner

AND

The Sr. Divisional Manager
LIC of India, Divisional Office,
Jeevan Godavari, Morampudi,
Rajahmundry-

Respondents

Appearances:

For the Petitioner : Shri V V Rama Krishna, Adv.

For the Respondent: Shri Venkatesh dixit, Adv.

A W A R D

The Government of India, Ministry of Labour by its order No.L-17012/23/2014 -IR(M) dated 12.05.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s LIC of India, and their workmen. The reference is,

SCHEDULE

"Whether the removal from service of Sri. V. Anil Kumar, Ex-Temp. Class-IV LIC of India, Rajahmundry D.O. w.e.f. 28.1.2013 is legal and justified. If not, what other relief the workman is entitled to.

The reference is numbered in this Tribunal as I.D. No. 103/2014 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for Petitioner evidence. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 23rd day of September, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1969.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एलआईसी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री वाई.वी.डी. प्रसाद** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न. 106/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-17012/26/2014-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1969.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 106/2014)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **LIC of India** and **Shri Y.V.D. Prasad** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-17012/26/2014-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 23rd day of September, 2024

INDUSTRIAL DISPUTE No. 106/2014

Between:

Sri Y.V.D Prasad
S/o Y. Srinivas
D.No:65-3-2/1,
Ramakrishna Nagar,
A.P Mills Society Building,
Rajahmundry-533105. .. Petitioner

AND

1. The Sr. Divisional Manager
   LIC of India, Divisional Office,
   Jeevan Godavari, Morampudi,
   Rajahmundry-
2. The Branch Manager
   LIC of India, Rajahmundry,
   E.G. Distt., A.P.

Respondents

Appearances:

For the Petitioner : Shri V V Rama Krishna, Adv.

For the Respondent: Shri Venkatesh dixit, Adv.

A W A R D

The Government of India, Ministry of Labour by its order No.L-17012/26/2014 -IR(M) dated 13.05.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s LIC of India, and their workmen. The reference is,

SCHEDULE

"Whether the removal from service of Sri. Y.V.D. Prasad, Ex-Temp. Class-IV LIC of India, Rajahmundry Main Branch w.e.f. 28.1.2013 is legal and justified. If not, what other relief the workman is entitled to.

The reference is numbered in this Tribunal as I.D. No. 106/2014 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for Petitioner evidence. Despite sufficient opportunity accorded to him, the Petitioner did not adduce any evidence to substantiate his claim. Perused the record. Since the Petitioner has not substantiated his claim by any evidence, therefore, a 'No-claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 23rd day of September, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1970.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स एयरपोर्ट्स ऑथोरिटी ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री जी. राधा कृष्णा राव** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न. 53/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-11012/1/2017-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1970.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 53/2018)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Airports Authority of India** and **Shri G. Radha Krishna Rao** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-11012/1/2017-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 27th day of August, 2024

INDUSTRIAL DISPUTE No. 53/2018

Between:

Shri G. Radha Krishna Rao,

s/o Sri Narasimha Rao,

Sr. Supndt (HR), AAI,

Begumpet, Hyderabad

AND

The General Manager,

M/s Airports Authority of India,

Begumpet Airport, Begumpet,

Hyderabad-500016.

Appearances:

For the Petitioner : Shri Y. Ranjeeth Reddy, Advocate

For the Respondent: Shri A.K. Jayaprakash Rao & M. Govind, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No.L-11012/1/2017-IR(M) dated 16.02.2018 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Airports Authority of India, and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of Airports Authority of India in awarding a second punishment vide order No. AAI/NAD/M/GR/VIG, dated 31.03.2017 treating the period of suspension period from 27.05.1992 to 29.06.1994 as period not spent on duty for the purpose of earning annual increment and not promoting to his original seniority in the higher service grade of Sri G. Radha Krishna Rao is legal and justified? If not, what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No 53/2018 and notices were issued to the parties concerned.

2. Counsel for Petitioner present and submitted that LRs of deceased petitioner did not come forward to pursue the case and requested to close the dispute. In view of the submission of petitioner's counsel, case is dismissed and a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 27th day of August, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 1971.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द साईट डायरेक्टर, राजस्थान ऑटोमिक पॉवर स्टेशन, रावतभाटा, पी.ओ.– अणुशक्ति, कोटा, (राज.) के प्रबंधतंत्र के संबद्ध नियोजकों **और महासचिव, परमाणु विद्युत कर्मचारी संघ (सीटू), रावतभाटा, कोटा,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- जयपुर,पंचाट(संदर्भ संख्या 78/2014) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 15.10.2024 को प्राप्त हुआ था।

[सं. एल-42011/73/2014-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 1971.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2014) of the **Central Government Industrial Tribunal cum Labour Court – Jaipur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **he Site Director, Rajasthan Atomic Power Station Rawatbhata P.o.- Anushakti, Kota, (Rajasthan),and The General Secretary, Parmanu Vidyut Kamachari Union (CITU), Rawatbhata ,Kota,** which was received along with soft copy of the award by the Central Government on 15.10.2024.

[No. L-42011/73/2014-IR(DU)]

DILIP KUMAR, Under Secy.

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 78/2014

Reference No. L-42011/73/2014-IR (DU) Dated: 07.10.2014

श्री प्रभू लाल राठी, द्वारा– जनरल सेक्रेटरी, परमाणु विद्युत कर्मचारी यूनियन, (CITU) CITU यूनियन ऑफिस, फेज–2, रावतभाटा, कोटा, 323305

.....प्रार्थी

बनाम

1. द साईट डायरेक्टर,, राजस्थान ऑटोमिक पॉवर स्टेशन, रावतभाटा, पी.ओ.– अणुशक्ति, कोटा, (राज.) 323303

.....अप्रार्थीगण/विपक्षी

उपस्थितः–

: प्रार्थी पक्ष की ओर से, कोई उपस्थित नहीं।

: श्री सागरमल चौहान, अभिभाषक (अभिभाषक विपक्षी श्री धर्मेन्द जैन, की ओर से)।

: अधिनिर्णय :

दिनांक : 03.07.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 07.10.2014 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–
"क्या अप्रार्थी प्रबंधन द्वारा प्रार्थी श्री प्रभूलाल राठी, तकनीशियन "डी" की पदोन्नति में भेदभाव बरतने की कार्यवाही वैध व न्यायोचित हैध यदि नहीं तो प्रार्थी किस राहत के व कब से पाने का हकदार है?"

2. दिनांक 11.05.2015 का प्रार्थी की ओर से दावे का अभिकथन प्रस्तुत कर यह कहा गया कि प्रार्थी की प्रारंभिक नियुक्ति विपक्षी द्वारा दिनांक 26.11.1975 से हेल्पर "ए" के पद पर की गई तथा दिनांक 01.07.1984 से हेल्पर "बी" के पद पर पदोन्नत किया गया। दिनांक 01.11.1993 से कार्यदक्ष "ए" के पद पर तथा दिनांक 01.11.1998 से कार्यदक्ष "बी" व दिनांक 01.11.2001 से कार्यदक्ष "सी" के पद पर पदोन्नति दी गई। दिनांक 01.11.2005 से कार्यदक्ष "डी" के पद पर पदोन्नत किया गया। वर्ष 2005 के बाद 9 वर्ष उपरांत भी अगली पदोन्नति नहीं दी गई– व मानदंड पूरे न होने के आधार पर वंचित कर दिया गया। इसके पश्चात पदोन्नति हेतु सोच विचार का भी अवसर नहीं दिया– जो नैसर्गिक न्याय के विपरीत है। अतः प्रार्थी को दिनांक 01.11.20112 से तकनीशियन "ई" के पद पर विगत पारिणामिक लाभों सहित पदोन्नति दी जावे व विपक्षी की कार्यवाही को अवैध माना जावे।

3. दिनांक 23.01.2017 को विपक्षी ने वादोत्तर प्रस्तुत कर वाद के तथ्यों को अस्वीकार किया। विपक्षी का कथन है कि प्रार्थी की ए.सी.आर. पदोन्नति नियमों के अंतर्गत होनी आवश्यक है जबकि प्रार्थी की वर्ष, 2013 की ए.सी.आर. न होने के कारण पदोन्नति नहीं दी गई। दिनांक 24.02.2015 के आदेश द्वारा ए.सी.आर. के मानदंड पूरे होने पर कार्यदक्ष "ई" के पद पर प्रार्थी को पदोन्नति दे दी गई। अतः वाद निरस्त किया जावे।

4. दिनांक 25.09.2017 को प्रार्थी ने विपक्षी के वादोत्तर के प्रति अतिरिक्त कथन प्रस्तुत कर उन्हें अस्वीकार किया है।

5. दिनांक 06.06.2019 से यह प्रकरण प्रार्थी की साक्ष्य हेतु नियत किया जाता रहा– किंतु प्रार्थी ने दिनांक 01.11.2023 तक भी अपनी साक्ष्य प्रस्तुत नहीं की– इसलिए अंतिम अवसर की चेतावनी देते हुये दिनांक 27.02.2024 नियत की गई। दिनांक 27.02.2024 को भी प्रार्थी ने साक्ष्य प्रस्तुत नहीं की इसलिए प्रार्थी की साक्ष्य का अवसर समाप्त कर दिया गया। विपक्षी ने इस स्थिति में कोई साक्ष्य प्रस्तुत नहीं करना चाहा। प्रार्थी ने लगभग 5 वर्ष की अवधि में एकाधिक अवसर दिये जाने पर भी स्वेच्छया अनुपस्थित रहकर अपने दावे के समर्थन में साक्ष्य प्रस्तुत नहीं की है।

6. प्रार्थी ने अपने दावे के समर्थन में स्वेच्छया कोई साक्ष्य प्रस्तुत नहीं की है। इस स्थिति में प्रार्थी के साक्ष्य के अभाव में यह प्रमाणित नहीं हो सका है कि प्रार्थी को तकनीशियन "डी" की पदोन्नति में विपक्षी द्वारा भेदभाव बरतते हुए कार्यवाही की गई हो। इसलिए प्रार्थी विपक्षी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

7. श्रम मंत्रालय भारत सरकार द्वारा संदर्भित विवाद को इसी प्रकार न्याय निर्णीत किया जाता है।

8. अधिनिर्णय की प्रतिलिपि समुचित सरकार को अधिनियम, की धारा 17 (1) के अंतर्गत प्रकाशनार्थ प्रेषित की जावें।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 16 अक्तूबर, 2024

का.आ. 1972.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (30/2011) प्रकाि ात करती है।

[सं. एल–12011/33/2011–आई आर (बी–I)]

सलोनी, उप निदेशक

New Delhi, the 16th October, 2024

S.O. 1972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.30/2011*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Bikaner and Jaipur their workmen.

[No. L-12011/33/2011-IR(B-I)]

SALONI, Dy. Director

अनुलग्नक

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 30/2011

Reference No. L-12011/33/2011-IR (B-I) **Dated: 01.09.2011**

श्री सुनील गिरधर पुत्र श्री ठाकुरदास, द्वारा श्री विजय मेहता, वाईस प्रेसीडेंट, राजस्थान ट्रेड यूनियन कॉग्रेस, विपरीत मारवाड़ स्वीट, आउट सोजती गेट, जोधपुर (राज.)।

.....प्रार्थीगण

बनाम

2. महाप्रबंधक, स्टेशनरी डिपो, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, तालघर सेक्टर–12, चोंपासानी हाउसिंग बोर्ड, जोधपुर (राज.)।

.....अप्रार्थीगण/विपक्षी

उपस्थितः–

प्रार्थी की ओर सेः कोई उपस्थित नहीं।

: श्री उदय शर्मा, अभिभाषक (श्री आर.के. जैन, अभिभाषक की ओर से) –विपक्षीगण।

: अधिनिर्णय :

दिनांक 04.07.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली, द्वारा दिनांक 01.09.2011 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

"Whether the action of the management of State Bank of Bikaner and Jaipur, Stationary Depot, Jodhpur in terminating the services of Shri Sunil Girdhar S/o Shri Thakurdas w.e.f. 26.06.2010, is legal and justified? To what relief the workman is entitled?"

2. दिनांक 04.12.2012 को प्रार्थी की ओर से अंग्रेजी भाषा में दावे का अभिकथन प्रस्तुत किया गया। जिसका संक्षिप्त अनुदित विवरण निम्नानुसार हैः–

3. प्रार्थी (श्री सुनील गिरधर) की नियुक्ति विपक्षी बैंक के अधीन सब स्टाफ दैनिक वेतन भोगी के रूप में दिनांक 29.11.2000 को हुई। प्रार्थी को दिनांक 29.11.2000 से अक्टूबर, 2007 तक वाउचर्स पर हस्ताक्षर लेकर भुगतान किया गया। दिनांक 23.11.2007 से 01.08.2008 तक चैक के माध्यम से और 01.08.2008 के उपरांत प्रार्थी के बैंक खाते में राशि जमा करवायी गई। दिनांक 26.06.2010 को प्रार्थी को मौखिक रूप से विपक्षी ने सेवामुक्त कर दिया। दिनांक 29.11.2000 से 25.06.2010 तक प्रार्थी ने प्रत्येक वर्ष में 240 दिन से अधिक कार्य किया। किंतु सेवामुक्त करने के पूर्व उसे 1 माह का नोटिस या नोटिस वेतन नहीं दिया गया। नयी नियुक्तियों में प्रार्थी को वरीयता नहीं दी गई। इस प्रकार प्रार्थी की सेवामुक्ति अधिनियम की धारा 25 एफ. जी. एच. व टी. एवं नियम 76 व 77 के प्रावधानों के विपरीत है। अतः वाद स्वीकार कर प्रार्थी को समस्त विगत परिलाभों सहित सेवा में बहाल करने का विपक्षी को आदेश दिया जावे।

4. दिनांक 24.01.2013 को विपक्षी बैंक की ओर से अंग्रेजी भाषा में वादोत्तर प्रस्तुत किया गया। जिसका संक्षिप्त अनुदित विवरण इस प्रकार हैः–

5. विपक्षी का कथन है कि प्रार्थी एवं विपक्षी के मध्य नियोजक एवं कर्मकार का संबंध न होने से यह विवाद औद्योगिक विवाद नहीं है। प्रार्थी को बैंक द्वारा विहित चयन प्रक्रिया अपनाते हुये नियुक्त नहीं किया गया। प्रार्थी से दिनांक 29.11.2000 से अक्टूबर, 2007 तक की अवधि में दैनिक पारिश्रमिक भुगतान के आधार पर जब–जब आवश्यकता हुई कार्य लिया गया और उसे परिश्रमिक का भुगतान भी कर दिया गया। प्रार्थी द्वारा किया गया कार्य आकस्मिक प्रकृति का था। प्रार्थी को बैंक द्वारा नियुक्त नहीं किया गया। इसलिए सेवा से हटाये जाने का प्रश्न नहीं उठता। प्रार्थी ने कभी भी लगातार कार्य नहीं किया। विपक्षी बैंक ने अधिनियम के किसी प्रावधान का उल्लंघन नहीं किया। अतः वाद निरस्त किया जावे।

6. इस विवाद में दिनांक 13.05.2017 को प्रार्थी के प्रतिनिधि ने अधिकरण को सूचित किया कि स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का विलय स्टेट बैंक ऑफ इंडिया में हो गया है। अतः प्रार्थी को रेफरेंस आदेश में संशोधन करवाने के लिए समय दिया जावे। प्रार्थी के इस निवेदन को स्वीकार करते हुये इस अधिकरण द्वारा दिनांक 30.11.2023 तक रेफरेंस आदेश में संशोधन की प्रतीक्षा की जाती रही। यहॉ यह उल्लेख किया जाना अति आवश्यक है कि दिनांक 06.03.2019 से 03.07.2024 तक प्रार्थी की ओर से लगातार कोई भी उपस्थित नहीं हुआ है। दिनांक 30.11.2023 को अधिकरण ने प्रार्थी की उपस्थिति एवं संशोधन आदेश के प्रस्तुतिकरण को सुनिश्चित करने के लिये न्यायहित में प्रार्थी को नोटिस जारी करने का आदेश भी दिया। यह नोटिस पत्रावली में संलग्न ट्रेक कंसाईन्मेंट रिकार्ड के अनुसार दिनांक 04.03.2024 को प्रार्थी को प्राप्त हो गया। इस नोटिस के प्राप्त हो जाने पर भी दिनांक 12.03.2024, 27.05.2024 और 03.07.2024 को प्रार्थी अकारण अनुपस्थित रहा, और कोई संशोधन आदेश न तो इस अधिकरण को प्राप्त हुआ और न ही प्रार्थी ने प्रस्तुत किया।

7. विपक्षी का यह तर्क है कि स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का विलय स्टेट बैंक ऑफ इंडिया में हो जाने के बाद विपक्षी बैंक का अस्तित्व नहीं रहा है। प्रार्थी ने लगातार 5 वर्ष तक अनुपस्थित रहकर यह सम्प्रेषित किया है कि वह इस विवाद में अपना पक्ष प्रस्तुत नहीं करना चाहता है। अतः वाद निरस्त कर दिया जावे।

8. मैंने विपक्षी के इस तर्क पर विचार किया। यह सत्य है कि विपक्षी स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का विलय स्टेट बैंक ऑफ इंडिया में हो जाने के कारण विपक्षी बैंक अब अस्तित्व में नहीं है। जब तक प्रार्थी रेफरेंस आदेश में संशोधन न करवाये अथवा स्टेट बैंक ऑफ इंडिया को इस विवाद में विपक्षी पक्षकार के रूप में संयोजित न करवाये इस विवाद का न्यायनिर्णयन तथा पारिणामिक अधिनिर्णय का निष्पादन असंभव है। प्रार्थी ने 5 वर्ष तक अनुपस्थित रहकर यह संम्प्रेषित किया है कि या तो वह इस विवाद को अग्रसरित नहीं करना चाहता अथवा उभयपक्ष के मध्य कोई विवाद शेष नहीं रहा है। प्रार्थी द्वारा इस विवाद के संदर्भ में प्रस्तुत दावे के अभिकथन को प्रमाणित करने हेतु कोई रूचि नहीं दर्शायी गई है, और अधिकरण द्वारा दिये गये समय व अवसरों का कोई उपयोग नहीं किया है। ऐसी स्थिति में जबकि विपक्षी बैंक अस्तित्व में नहीं है और प्रार्थी ने स्टेट बैंक ऑफ इंडिया को विपक्षी के रूप में संयोजित करने का कोई प्रयास 5 वर्ष तक नहीं किया है। इस अधिकरण के सुविचारित अधिमत से प्रार्थी विपक्षी के विरूद्व कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

9. संदर्भित विवाद का इसी प्रकार न्यायनिर्णयन किया जाता है।

10. अधिनिर्णय की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

11. न्यायालय द्वारा अधिनिर्णय आज दिनांक 04.07.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 16 अक्तूबर, 2024

का.आ. 1973.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ पटियाला विलय स्टेट बैंक ऑफ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच

अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जयपुर** के पंचाट (70/2007) प्रकाि ात करती है।

[सं. एल–12012/123/2007–आई आर (बी–I)]

सलोनी, उप निदेशक

New Delhi, the 16th October, 2024

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.70/2007) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala Merged State Bank of India their workmen.

[No. L-12012/123/2007-IR(B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 70/2007

Reference No. L-12012/123/2007-IR (B-I) Dated: 10.10.2007

श्री अनिल कुमार पुत्र श्री बेलीराम बाल्मिकी, निवासी– वार्ड नं. 5, पीलीबंगा, जिला– हनुमानगढ (राजस्थान)

.....प्रार्थीगण

बनाम

3. महाप्रबंधक, स्टेट बैंक ऑफ पटियाला, हेड ऑफिस, पटियाला, पंजाब।
4. शाखा प्रबंधक, स्टेट बैंक ऑफ पटियाला, शाखा– पीलीबंगा, जिला– हनुमानगढ (राज.)

.....अप्रार्थीगण/विपक्षी

उपस्थितः–

प्रार्थी की ओर सेः कोई उपस्थित नहीं।

विपक्षीगण की ओर सेः कोई उपस्थित नहीं।

: अधिनिर्णय :

दिनांक 08.07.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली, द्वारा दिनांक 10.10.2007 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

"Whether the applicant Shri Anil Kumar, Kahar (Waterman) is entitled for the part-time job on proportionate wages after his discontinuation of job From 14-08-2004 in the bank, on the basis of his past service rendered from 1996 to 2004 (8 years service)? If so, to what relief the claimant workman is entitled to and from which date?"

2. दिनांक 18.02.2008 को प्रार्थी की ओर से दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया कि प्रार्थी की नियुक्ति विपक्षी संख्या–2 के अधीन दिनांक 28.09.1996 को कहार (पानी पिलाने वाला) के पद पर दैनिक वेतन भोगी कर्मचारी के रूप में हुई थी। प्रार्थी ने इस पद पर लगातार दिनांक 14.08.2004 कार्य किया। विपक्षी ने दिनांक 14.08.2004 को मौखिक आदेश द्वारा प्रार्थी को बिना कोई नोटिस अथवा नोटिस वेतन एवं मुआवजे का भुगतान किये सेवामुक्त कर दिया। प्रार्थी ने एक कलेण्डर वर्ष में विपक्षी के अधीन 240 दिन से अधिक सेवा पूर्ण कर ली है। प्रार्थी की सेवामुक्ति के बाद विपक्षीगण ने प्रार्थी के स्थान पर नये कर्मचारी की नियुक्ति की और प्रार्थी को कोई अवसर नहीं दिया। प्रार्थी विपक्षीगण से मौखिक एवं लिखित रूप से पुनः सेवा में लिये जाने का निवेदन करता रहा लेकिन कोई उत्तर नहीं दिया। अतः वाद स्वीकार कर प्रार्थी की सेवामुक्ति

को अवैध घोषित करते हुये सेवा में निरंतरता एवं विगत वेतन परिलाभों सहित प्रार्थी को सेवा में बहाल करने का आदेश दिया जावे।

3. दिनांक 17.03.2010 को विपक्षीगण द्वारा वादोत्तर प्रस्तुत करते हुये यह कहा गया कि प्रार्थी को बैंक में प्रचलित नियमों के अनुसार कोई नियुक्ति नहीं दी गई। विपक्षी की शाखा में कहार का कोई पद सृजित नहीं था। प्रार्थी एवं विपक्षी के बीच नियोजक एवं नियोजित का संबंध कभी नहीं था। अतः यह विवाद औद्योगिक विवाद नहीं है। प्रार्थी द्वारा समय–समय पर पानी लाने/पिलाने/सफाई करने का कार्य आवश्यकतानुसार किया जाता था। जिसका भुगतान प्रार्थी को समय–समय पर वाउचर्स द्वारा किया जाता था। प्रार्थी ने किसी वर्ष में 240 दिन कार्य नहीं किया। दिनांक 14.08.2004 को प्रार्थी को सेवामुक्त नहीं किया गया। विपक्षी ने अधिनियम के किसी भी प्रावधान का उल्लंघन नहीं किया। अतः वाद निरस्त किया जावे।

4. प्रार्थी ने दिनांक 02.06.2010 को विपक्षी द्वारा प्रस्तुत किये गये वादोत्तर के कथनों को अतिरिक्त कथन प्रस्तुत करते हुये अस्वीकार किया।

5. दिनांक 14.09.2017 को प्रार्थी पक्ष ने एक प्रार्थना पत्र प्रस्तुत करते हुये निवेदन किया कि विपक्षी बैंक स्टेट बैंक ऑफ पटियाला का विलय स्टेट बैंक ऑफ इंडिया में कर दिया गया है, इसलिए स्टेट बैंक ऑफ पटियाला के स्थान पर स्टेट बैंक ऑफ इंडिया का नाम संयोजित किया जावे। तत्पश्चात दिनांक 31.10.2019 को इस अधिकरण द्वारा प्रार्थी का निवेदन स्वीकार करते हुये स्टेट बैंक ऑफ पटियाला का विलय स्टेट बैंक ऑफ इंडिया में हो जाने के कारण स्टेट बैंक ऑफ इंडिया को विपक्षी के रूप में संयोजित करते हुये प्रार्थी को संशोधित दावे का अभिकथन प्रस्तुत करने का आदेश दिया गया।

6. किंतु प्रार्थी ने दिनांक 22.01.2020 से दिनांक 08.07.2024 तक, दिनांक 31.10.2019 को पारित आदेश के अनुपालन में संशोधित वाद शीर्षक प्रस्तुत नहीं किया। यहाँ यह उल्लेख किया जाना आवश्यक है कि दिनांक 22.01.2020 के उपरांत 08.07.2024 तक लगभग 4 वर्ष 6 माह की अवधि व्यतीत होने पर भी प्रार्थी ने संशोधित वाद शीर्षक प्रस्तुत नहीं किया एवं अनुपस्थित रहा है। स्टेट बैंक ऑफ पटियाला का विलय स्टेट बैंक ऑफ इंडिया में हो जाने पर जब तक स्टेट बैंक ऑफ इंडिया विपक्षी पक्षकार के रूप में संयोजित न हो, इस विवाद का न्यायनिर्णयन करते हुये अधिनिर्णय पारित किया जाना संभव नहीं है। प्रार्थी की इतने लम्बे समय तक अनुपस्थिति के कारण इस अधिकरण के सुविचारित अभिमत से और अधिक प्रार्थी की प्रतीक्षा किया जाना निरर्थक है।

7. इस तथ्यात्मक परिदृश्य में यह उपधारित किया जाता है कि प्रार्थी अब विपक्षी बैंक के विरूद्व अपने दावे का अग्रसरण नहीं करना चाहता है। चूकिं विपक्षी स्टेट बैंक ऑफ पटियाला अब अस्तित्व में नहीं है, और उसके स्थान पर स्टेट बैंक ऑफ इंडिया को विपक्षी के रूप में संयोजित करते हुये प्रार्थी ने अपने दावे का अभिकथन प्रस्तुत नहीं किया है, इसलिए प्रार्थी, विपक्षीगण के विरूद्व दावे के अग्रसरण के अभाव में कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

8. संदर्भित विवाद का इसी प्रकार न्यायनिर्णयन किया जाता है।

9. अधिनिर्णय की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

10. न्यायालय द्वारा अधिनिर्णय आज दिनांक 08.07.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 16 अक्तूबर, 2024

का.आ. 1974.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर विलय** स्टेट बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिश्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **जयपुर** के पंचाट (09/2017) प्रकाि ात करती है।

[सं. एल–12012/09/2016–आई आर (बी–I)]

सलोनी, उप निदेशक

New Delhi, the 16th October, 2024

S.O. 1974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 09/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Bikaner and Jaipur Merged State Bank of India their workmen.

[No. L-12012/09/2016-IR(B-I)]

SALONI, Dy. Director

अनुलग्नक

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

सी.जी.आई.टी. प्रकरण सं.– 09 / 2017

Reference No. L-12012/09/2016-IR (B-I) Dated: 06.04.2017

श्री अमित सारवान पुत्र श्री लालाराम, निवासी– ए–48, फौजी ढावा के पीछे, राजीव नगर, खातीपुरा रोड़, जयपुर (राज.)।

.....प्रार्थीगण

बनाम

1. शाखा प्रबंधक, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, शाखा करधनी, 5–ए, संजय नगर, जोशी मार्ग, कालवाड रोड जयपुर (राज.)।
2. महाप्रबंधक, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, तिलक मार्ग, सी–स्कीम, जयपुर।

.....अप्रार्थीगण / विपक्षी

उपस्थितः–

प्रार्थी की ओर सेः कोई उपस्थित नहीं।

विपक्षी की ओर सेः कोई उपस्थित नहीं।

: अधिनिर्णय :

दिनांक : 23.07.2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली, द्वारा दिनांक 06.04.2017 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2। के अन्तर्गत प्रदत्त शक्तियो के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :–

> **"क्या प्रबंधन, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर, शाखा करधनी, जयपुर का कर्मकार श्री अमित सारवान, सफाई कर्मचारी को मौखिक आदेश दिनांक 09.08.2015 के द्वारा नौकरी से निकाला जाना न्यायोचित है? यदि नहीं, तो उक्त कर्मकार किस अनुतोष को पाने का अधिकारी है? "**

2. दिनांक 26.07.2017 को प्रार्थी ने अपने दावे का अभिकथन प्रस्तुत करते हुये यह कहा है कि विपक्षी बैंक ने दिनांक 20.10.2012 को सफाई कर्मचारी के लिये 70 / –रू. प्रतिदिन वेतन पर उसे नियुक्त किया। प्रार्थी का वेतन बाद में 200 / –रू. प्रतिदिन किया गया और वाउचर्स के माध्यम से भुगतान किया। दिनांक 09.08.2015 को विपक्षी शाखा प्रबंधक ने मौखिक आदेश से प्रार्थी की सेवाये समाप्त कर दी। सेवा समाप्ति के पूर्ववर्ती एक वर्ष में प्रार्थी ने 240 दिन से अधिक कार्य कर लिया था किंतु विपक्षी ने अधिनियम की धारा 25 एफ. के प्रावधानों का पालन नही किया। सेवा मुक्त करते समय कोई वरिष्ठता सूची नहीं बनाई और प्रार्थी के स्थान पर अन्य व्यक्ति को नियुक्त कर लिया गया। अतः सेवामुक्ति को अवैध घोषित करते हुये सेवा में निरंतरता और पूर्व परिलाभों सहित प्रार्थी को सेवा में बहाल किया जावे।

3. दिनांक 26.07.2017 को प्रार्थी के अभिभाषक ने यह सूचित किया कि विपक्षी स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का विलय स्टेट बैंक ऑफ इंडिया में हो चुका है। इसलिए रेफरेंस आदेश में संशोधन करवाने हेतु समय दिया जावे। दिनांक 27.08.2019 को प्रार्थी ने एक प्रार्थना पत्र प्रस्तुत कर स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर (S.B.B.J.) का विलय स्टेट बैंक ऑफ इंडिया (S.B.I.) में हो जाने के कारण अप्रार्थी संस्थान के नाम में संशोधन करने का निवेदन किया। विपक्षी द्वारा इस प्रार्थना पत्र का कोई लिखित विरोध नहीं किया गया।

4. दिनांक 31.10.2019 को अधिकरण द्वारा विपक्षी बैंक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के स्थान पर स्टेट बैंक ऑफ इंडिया प्रत्यास्थापित करते हुये विपक्षी के रूप में संयोजित करने का आदेश दिया व प्रार्थी को निर्देश दिया कि वह संशोधित वाद शीर्षक प्रस्तुत करे। इस आदेश के उपरांत दिनांक 20.01.2021 तक प्रार्थी यद्यपि उपस्थित होता रहा, किंतु उसने आदेश के अनुपालन में संशोधित वाद शीर्षक प्रस्तुत नहीं किया। लगभग 3 वर्ष की अवधि व्यतीत हो जाने पर भी प्रार्थी ने

संशोधित वाद शीर्षक प्रस्तुत नहीं किया। दिनांक 01.04.2024 को यह चेतावनी भी दी गई कि यदि प्रार्थी ने आदेश का अनुपालन नहीं किया तो इस प्रकरण में कोई विवाद शेष न होना मानते हुये अधिनिर्णय पारित कर दिया जावेगा।

5. आज दिनांक 23.07.2024 को न तो प्रार्थी उपस्थित है और न ही संशोधित वाद शीर्षक प्रार्थी की ओर से प्रस्तुत हुआ है।

6. यह तथ्य विवादित नहीं है कि पूर्ववर्ती विपक्षी बैंक स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर का विलय स्टेट बैंक ऑफ इंडिया में हो जाने के उपरांत जब तक स्टेट बैंक ऑफ इंडिया को विपक्षी बैंक के रूप में इस विवाद में संयोजित न किया जावे तब तक संदर्भित विवाद का प्रभावी रूप से न्यायनिर्णयन नहीं किया जा सकता एवं अधिकरण द्वारा पारित अधिनिर्णय निष्पादन योग्य नहीं हो सकता। यह उल्लेखनीय है कि प्रार्थी स्वयं लगभग चार वर्ष से अधिक अवधि में संशोधित वाद शीर्षक प्रस्तुत नहीं कर सका है। और विगत तीन वर्ष से अधिक समय से वह अनुपस्थित भी है। इस स्थिति में यह अधिकरण यह उपधारणा करने को विवश है कि प्रार्थी और विपक्षी के मध्य या तो कोई विवाद शेष नहीं है अथवा प्रार्थी अपने वाद का अग्रसरण करने को इच्छुक नहीं है। प्रार्थी द्वारा आदेश की अनुपालना करते हुये संशोधित वाद शीर्षक प्रस्तुत न करने के कारण वह कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

7. संदर्भित विवाद का इसी प्रकार न्यायनिर्णयन किया जाता है।

8. अधिनिर्णय की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावें।

9. न्यायालय द्वारा अधिनिर्णय आज दिनांक 23.07.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 16 अक्तूबर, 2024

का.आ. 1975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिश्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण, पटना के पंचाट (सन्दर्भ केस नंबर 20 © का 2023) को प्रकाि ात करती है, जो केन्द्रीय सरकार को **14/10/2024** को प्राप्त हुआ था।

[सं. एल –20013/01/2024–आई.आर. (सी.एम–I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 16th October, 2024

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Reference. Case. No. 20 © of 2023*)*** of the **Industrial Tribunal, PATNA** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **14*/10/2024.***

[No. L-20013/01/2024 – IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

Before The Presiding Officer,

Industrial Tribunal, Patna.

Reference Case No.:-20 (C) of 2023

Between the management of the (1) Divisional Manager, Food Corporation of India, Disttrict Office: Parmanand Niketan, North Church Road, Near Gandhi Maidan, Gaya- 823001 (2) Assistant General Manager Food Corporation of India, Regional Office, Arunachal Building, Exhibition Road, Patna-800001 And their workman Shri Mahesh Paswan, Convenar, All India FCI worker Kalyan Union, Katari Hill Gaya, Bihar Pin- 823001.

For the management:- None.

For the workman:- None.

Present:- **Manoj Shankar,**

Presiding Officer,
Industrial Tribunal, Patna.

A W A R D

Patna, dt- 24th September, 2024.

By the adjudication order no.- 1/ID(24)/2023/Dy CLC-Pt dated- 20/21.12.2023 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under clause (d) of sub-section-(1) of Section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as "the Act"), the following dispute between (1) Divisional Manager, Food Corporation of India, Disttrict Office: Parmanand Niketan, North Church Road, Near Gandhi Maidan, Gaya- 823001 (2) Assistant General Manager Food Corporation of India, Regional Office, Arunachal Building, Exhibition Road, Patna-800001 And their workman Shri Mahesh Paswan, Convenar, All India FCI worker Kalyan Union, Katari Hill Gaya, Bihar Pin- 823001 for adjudication to this tribunal:-

SCHEDULE

"Whether the action of the management of Food Corporation of India, Katari Hill, Gaya over the issue of unfair labour practice regarding not implementation of the actual position of Gang no, 17 & Gang no, 16 to the position of Gang no. 11 & Gang no. 03 respectively in FCI Gaya are just and justified or not? If not, what relief (s) the workmen are entitled to?"

2. On perusal of the reference order dt- 20.12.2023, that it was received to this tribunal on 27.12.2023, it appears that Mahesh Paswan the Convenar, All India FCI worker Kalyan Union, Katari Hill Gaya, Bihar Pin- 823001 had raised the grievance of workman against the FCI (Management) over the issue of unfair labour practice on the part of management. Record also shows that on receiving the reference order, this tribunal issued registered notice to both the parties on 02.02.2024 fixing 27.02.2024 to appear before this tribunal but none of the parties appeared. This tribunal further finds that office also reported that the registered notice issued by this tribunal to both the parties is also not returned back but yet tribunal fixed next dt- 02.04.2024 and 28.05.2024 but none of the parties appeared before this tribunal then tribunal has given last chance to both the sides on 01.07.2024 fixing to appear in this case fixing 20.08.2024. On 20.08.024 too both the parties were absent then tribunal observed that both the parties are not looking interested in the instant reference but yet another last chance was given to both the sides fixing on 17.07.2024. On 17.09.2024 both the parties again remained absent then tribunal hold that continuous absence of both the parties is itself indicative of the fact that both the sides are not at all interested in the instant reference case. Under aforesaid factual status of the case, this tribunal has no option than to pass " No Dispute Award". So " No Dispute Award" passed in this case accordingly. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated &Corrected by me.

Date : 24.09.2024

MANOJ SHANKAR**,** Presiding Officer

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.